

First Judicial District of Pennsylvania

51CR00047732011

Johnnie Simmons

*Voir Dire Volume 2
December 06, 2011*



*First Judicial District of Pennsylvania
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[1] IN THE COURT OF COMMON PLEAS
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
[3] CRIMINAL TRIAL DIVISION
[4] ---
[5]
[6] COMMONWEALTH : CP-51-CR-0004773-2011
[7] V. :
[8] JOHNNIE SIMMONS :
[9] ---
[10] Courtroom 802, Criminal Justice Center
[11] Philadelphia, Pennsylvania
[12] ---
[13] December 6, 2011
[14] ---
[15] Jury Trial
[16] Volume I
[17] ---
[18] B E F O R E: THE HONORABLE SANDY L. V. BYRD, J.
[19]
[20] **APPEARANCES:**
[21] STACY FORCHETTI, ESQUIRE
[22] Assistant District Attorney
For the Commonwealth
[23] VINCENT LORUSSO, ESQUIRE
[24] Counsel for the Defendant
[25] Jaclyne Wilson

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[1] **THE COURT:** We're on the record in our
[2] trial case, Commonwealth vs. Johnnie Simmons,
[3] CP-51-CR-0004773-2011. Mr. Simmons is here with his
[4] attorney, Mr. Lorusso. The Commonwealth by
[5] Ms. Forchetti.
[6] Ms. Forchetti, it's now 9:15. We've been
[7] at this for two days. You've managed to be late
[8] both days. This is the last case you'll try here.
[9] If you'll late again tomorrow, you'll be fined
[10] \$1,000 and a contempt proceeding. Advise one of
[11] your colleagues to be ready to represent you.
[12] **MS. FORCHETTI:** Your Honor, I understand
[13] your frustration with me. I left my house at 7:40.
[14] **THE COURT:** I don't want to hear it,
[15] ma'am. I have not held you in contempt today.
[16] There's no reason to explain. If you have an
[17] explanation tomorrow, you can practice it and give
[18] it to me tomorrow.
[19] (Jury panel enters the courtroom at 9:40 a.m.)
[20] **THE COURT:** Good morning.
[21] (Jury panel sworn.)
[22] **THE COURT:** Ladies and gentlemen,
[23] welcome. I'm Judge Byrd.
[24] You've been summoned here this morning to
[25] participate as jurors in the trial of a criminal
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[1] case. This is the case of Commonwealth of
[2] Pennsylvania vs. Johnnie Simmons. I shall say more
[3] about this particular case in short order. But I
[4] must instruct you regarding your role as jurors.
[5] And preliminarily let me tell all of you something
[6] that you already know, and that is jury service is
[7] one of the most important responsibilities in
[8] citizenship. Indeed it has been characterized by
[9] legal scholars in terms of its importance to our
[10] democracy as second only to service in the military
[11] during periods of conflict. So, please, bear that
[12] in mind and understand that no one can be excused,
[13] no one will be excused except for a most serious of
[14] reasons.

[15] Ladies and gentlemen, our Constitution
[16] governs the trial of criminal cases in these United
[17] States. And what I'm about to do is to outline for
[18] you the constitutional dimensions of a criminal
[19] trial. Bear in mind that this case will proceed
[20] utilizing the rules that have been in effect since
[21] this country was founded. Every case tried in these
[22] United States has been tried pursuant to these rules
[23] which are mandated by our Constitution. So the
[24] instructions I give you now with regards to the
[25] constitutional dimensions of a jury trial are in

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[1] evidence you've heard whether or not the
[2] Commonwealth proved guilt beyond a reasonable doubt.

[3] Now, it's still early by Philadelphia
[4] standards. It's quarter to 10:00. Nevertheless, I
[5] know a good number of you have been here since at
[6] least 8:00, 8:15 this morning. I know that you've
[7] already answered a series of questions because I
[8] have your questionnaires. I do not intend to ask
[9] again the questions you've already answered. It
[10] will be necessary for me to ask some additional
[11] questions and I want you to bear in mind that these
[12] questions are not designed to embarrass you or to
[13] invade your privacy. This is a routine aspect of
[14] jury selection. So if you continue to answer the
[15] questions honestly and with candor, we shall from
[16] your midst conclude jury selection and start this
[17] case this morning.

[18] Each of you has been given a numbered
[19] card. In the course of my instructions, comments,
[20] and/or questions to you, if something I say applies
[21] to you, it's important that you bring that to our
[22] attention by raising your hand. You should be sure
[23] to have that card in your hand and if the question
[24] applies to you, raise your hand, make sure the card
[25] that is the numbered side of the card faces me,

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[1] effect here in Pennsylvania and all of our sister
[2] states and in the federal system.

[3] Defendants in criminal cases are presumed
[4] innocent and that presumption remains unless and
[5] until the Commonwealth proves guilt beyond a
[6] reasonable doubt. So a defendant has no obligation
[7] to prove his innocence. It's the Commonwealth's
[8] burden to prove guilt beyond a reasonable doubt.

[9] It follows then that an arrest is not
[10] evidence of guilt. The evidence in criminal cases
[11] unfolds in the courtroom for the edification of the
[12] ladies and gentlemen of the jury. Now, our
[13] Constitution having afforded defendants a
[14] presumption of innocence and concluded that it is
[15] the Commonwealth's burden to prove guilt and that
[16] the defendant has no obligation to prove his
[17] innocence has extended to every defendant a right of
[18] silence at trial.

[19] Defendants have no obligation to testify,
[20] and if a defendant elects not to testify, you may
[21] not hold it against him for exercising a
[22] constitutional right. You may not draw an inference
[23] of guilt or any other adverse inference from the
[24] decision to exercise that right. In such an event
[25] the obligation of the jury is to determine from the

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[1] raise the card high, keep it raised until such time
[2] as your number is called out. After which you may
[3] lower the card again.

[4] Please don't blurt out any answers to any
[5] questions I ask of you. If you're not sure whether
[6] or not the question applies to you, raise your hand
[7] any way and we'll sort it when I speak to you
[8] individually. I shall speak to each of you,
[9] obviously in the presence of these two attorneys,
[10] individually during the course of this jury
[11] selection process.

[12] Before I address this particular case,
[13] the Commonwealth vs. Simmons, it's important in
[14] light of my recitation of the constitutional
[15] guarantees that I bring two questions to your
[16] attention that appear in the questionnaire. One
[17] question asks would you be more likely to believe
[18] the testimony of a police officer or other law
[19] enforcement agent simply because of his or her job.
[20] The other asks would you be less likely to believe
[21] the testimony of a police officer or other law
[22] enforcement agent simply because of his or her job.

[23] You are all intelligent people so you can
[24] appreciate that the law is very clear on this. No
[25] one comes before a jury with an entitlement to be

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[1] believed or disbelieved for that matter. Every
[2] witness who takes the witness stand is to have his
[3] or her attorney -- strike that.

[4] Is to have his or her testimony evaluated
[5] in the very same way. You may not give any greater
[6] weight to the testimony of a police officer or other
[7] law enforcement agent simply because of his or her
[8] job. You may not give any less weight to the
[9] testimony of a police officer or other law
[10] enforcement agent simply because of his or her job.
[11] A police officer's testimony is to be evaluated in
[12] the same way you would that of say an astronaut or a
[13] gardner, a dentist or a truck driver.

[14] Everyone is to have his or her testimony
[15] evaluated in the very same way. You can not remove
[16] the burden of deciding the facts in a criminal case
[17] by saying oh, that was a police officer testifying.
[18] I would never believe a police officer. Or, oh,
[19] that was a police officer testifying. I'll always
[20] believe a police officer.

[21] This has absolutely nothing to do with
[22] whether or not you respect the job that's done by
[23] law enforcement agents. What this has to do with is
[24] whether or not you respect the law sufficiently that
[25] you will apply it in the way that it is designed to

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[1] Commonwealth has an attorney and the defendant has
[2] an attorney.

[3] In this case the defendant has been
[4] charged with the following offenses. He has been
[5] charged with attempted murder, aggravated assault,
[6] carrying a firearms without a license, possession of
[7] an instrument of crime, and criminal conspiracy.

[8] The charges against this defendant are
[9] the result of the following allegations. The
[10] Commonwealth alleges that on or about February the
[11] 4th, 2011, in the 1300 block of Johnson Street here
[12] in Philadelphia the defendant, the Commonwealth
[13] alleges, Johnnie Simmons, while acting in concert
[14] with others, shot the complainant, Charles Talbert,
[15] multiple times resulting in the complainant being
[16] hospitalized as Einstein.

[17] So my first question is do any of you
[18] know something or anything at all about the
[19] allegations that gave rise to the charges against
[20] this defendant? If so, please raise your hand.

[21] **COURT CRIER:** No response, Your Honor.

[22] **THE COURT:** With your permission I shall
[23] now introduce you to the principles in this case.
[24] And I'll start from my left and work my way across
[25] the room. Typically I ask the individual I've

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[1] be applied.

[2] Now, I started off by saying that those
[3] of you selected would be fact finders. That's the
[4] role of a juror. A juror has an obligation to
[5] present himself or herself with a desire to give
[6] this matter complete attention. During that period
[7] of time listen to the evidence because you will be
[8] called upon thereafter collectively to decide from
[9] that evidence what the facts are. Jurors have an
[10] obligation to accept the law from the presiding
[11] judge. They must then apply that law to the facts
[12] as they determine the facts to be. And, thereafter,
[13] to decide whether the Commonwealth has or has not
[14] met its burden proving guilt beyond a reasonable
[15] doubt.

[16] So those of you selected will be called
[17] upon to decide credibility. And by credibility I
[18] mean truthfulness and/or accuracy. So you will
[19] evaluate the witnesses, each witness, and decide
[20] whether you believe some, all, or none of their
[21] testimony. That's the role of a juror.

[22] I started off by advising you, ladies and
[23] gentlemen, that this was the case of the
[24] Commonwealth of Pennsylvania vs. Johnnie Simmons.
[25] As you can plainly see both sides are represented.

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[1] introduced to stand, but we're all on eye level here
[2] and unless you tell me otherwise, I believe you can
[3] see the three people before you without their having
[4] to stand. So I'm simply going to introduce them.
[5] And if anybody can not see them, raise your hand and
[6] at that junction I'll ask them to stand.

[7] Starting from my left, the first person I
[8] shall introduce you to is a member of the District
[9] Attorney's Office. She represents the Commonwealth
[10] in this case. Stacey Forchetti, Esquire.

[11] **MS. FORCHETTI:** Good morning.

[12] **THE COURT:** Going across the room, the
[13] next person I shall introduce you to is a member of
[14] the defense bar. He represents the defendant.
[15] Vincent Lorusso, Esquire.

[16] **MR. LORUSSO:** Good morning, ladies and
[17] gentlemen.

[18] **THE COURT:** And to his right is the
[19] defendant in this case, Johnnie Simmons.

[20] **THE DEFENDANT:** Good morning.

[21] **THE COURT:** Do any of you know or have
[22] you had any association with or are you related by
[23] blood or marriage to either the assistant district
[24] attorney Ms. Forchetti, defense counsel Mr. Lorusso,
[25] the defendant Johnnie Simmons, or me, I'm Judge

Jaclyne Wilson

[1] Byrd? If so, please raise your hand.
[2] **COURT CRIER:** Response, Your Honor, on
[3] No. 11.
[4] No further responses.
[5] **THE COURT:** Please, ladies and gentlemen,
[6] look about the courtroom and you can see we have a
[7] full staff. We have a court reporter who's taking
[8] down an official transcription of these proceedings.
[9] We have a court clerk who's keeping an official
[10] record of these proceedings. We have a court crier
[11] and court officer whom you've met. And we have a
[12] deputy sheriff.
[13] Same question, do any of you know or have
[14] you had any association with or are you related by
[15] blood or marriage to any of the persons who makes up
[16] the court staff? If so, please raise your hand.
[17] **COURT CRIER:** No response, Your Honor.
[18] **THE COURT:** You, ladies and gentlemen,
[19] are all well aware that in the trial of a criminal
[20] case witnesses will be called. And I have a list of
[21] potential witnesses. I use that phrase potential
[22] witnesses advisedly because although some of the
[23] persons on this list will undoubtedly be called as
[24] witnesses, others may simply be mentioned by those
[25] testifying, and still others may merely be in and/or
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[1] Detective Donald Suchinsky, S-U-C-H-I-N-S-K-Y,
[2] Detective Timothy Hartman, H-A-R-T-M-A-N, Detective
[3] James Sloan, S-L-O-A-N, and Detective John
[4] Geleibter, G-E-L-E-I-B-T-E-R, all from Northeast
[5] Detectives Division.
[6] In addition Leland Kent, K-E-N-T, an
[7] employee of the District Attorney's Office and
[8] Dr. Mark Kaplan, a physician at Albert Einstein
[9] Medical Center.
[10] Same question, ladies and gentlemen, do
[11] any of you know or have you had any association with
[12] or are you related by blood or marriage to any of
[13] the persons just named? If so, please raise your
[14] hand.
[15] **COURT CRIER:** No response, Your Honor.
[16] **THE COURT:** I have already, ladies and
[17] gentlemen, instructed you regarding the
[18] constitutional guarantees afforded a defendant in a
[19] criminal trial. Nevertheless, let me ask the
[20] following questions.
[21] Does anyone here have a fixed opinion
[22] about the guilt or innocence of this defendant to
[23] any of the charges made against him? If so, please
[24] raise your hand.
[25] **COURT CRIER:** No response, Your Honor.
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[1] about the courtroom during the course of the trial.
[2] So listen carefully. I'm going to read
[3] off the list of potential witnesses and should you
[4] recognize any of these persons, raise your hand.
[5] The witness list includes the following
[6] individuals. The first three are all residents of
[7] the East Mt. Airy section of Philadelphia. They
[8] include the aforementioned complainant in this case,
[9] Charles Talbert, T-A-L-B-E-R-T, Michael Bell,
[10] B-E-L-L, and Kyle Holman, H-O-L-M-A-N.
[11] In addition, Terrell Pollard,
[12] P-O-L-L-A-R-D, from Logan and Gerald Wright,
[13] W-R-I-G-H-T, from North Philadelphia.
[14] In addition to that a medic from the 18th
[15] District Michael Donohue, D-O-N-O-H-U-E, and the
[16] **following police officers:** Police Officer Richard
[17] Anderson from the 6th Police District, Police
[18] Officer James Edmiston, from the 14th Police
[19] District, and also from the 14th Police District
[20] Police Officer Michael Long and Police Officer Allen
[21] Carroll.
[22] In addition the following detectives, all
[23] from Northwest Detective Division, Michael Acerenza,
[24] A-C-E-R-E-N-Z-A, Detective Robert Hassel,
[25] H-A-S-S-E-L, Detective Steven Grace, G-R-A-C-E,
Jaclyne Wilson

[1] **THE COURT:** Do any of you know of any
[2] reason why if you were selected to serve on this
[3] jury you would not be able to give both sides, the
[4] defendant and the Commonwealth, a fair trial?
[5] **COURT CRIER:** No response, Your Honor.
[6] **THE COURT:** Now, ladies and gentlemen, as
[7] I said earlier, we expect to start testimony in this
[8] case in short order. We expect that the testimony
[9] will consume all of today and all of tomorrow.
[10] For reasons outside of our control there
[11] will be no court on Thursday and Friday. So closing
[12] arguments and the charge of this Court is expected
[13] to take place on Monday and, thereafter, the case
[14] will be yours for deliberations. That is our best
[15] estimate based on our collective experience in
[16] matters of this sort. We have on occasion over
[17] estimated the length of time a case will last. We
[18] have on occasion underestimated the length of time a
[19] case will last. We think we've got it just about
[20] right.
[21] There are some things I can tell you with
[22] certainly. This is not a death penalty case. Nor
[23] will the jury be sequestered. No one will be asked
[24] to bring an overnight bag and be put up in some
[25] Center City hotel. What you can expect is that we
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[1] work business hours here. I'm on the bench every
[2] morning at nine o'clock. So I expect to get
[3] underway at least by 9:30. We work through the
[4] morning. We take breaks as the jury requires
[5] breaks. We have an hour for lunch. We come back in
[6] the afternoon and we work till 4:30.
[7] If it appears at some point this morning
[8] that we're falling behind, I will invite you to come
[9] down so that we can start testimony at 9:00 and
[10] we'll work till 5:00. So you can see the hours are
[11] not onerous. The hours are much like those you keep
[12] in your places of employment every day. Is jury
[13] service an inconvenience? It is, but it is a small
[14] price to pay for the perpetuation of our judicial
[15] system.
[16] Now, I want you to bear in mind
[17] everything I just said and based there on is there
[18] anyone here for whom jury service would constitute a
[19] real, serious hardship, not an inconvenience, but a
[20] hardship? If you have a hardship, raise your hand.
[21] **COURT CRIER:** Response, Your Honor, from
[22] Juror No. 1 and 4.
[23] No further responses.
[24] **THE COURT:** Ladies and gentlemen, from
[25] this point forward you may not discuss this case in
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[1] bring it to the attention of the court crier or the
[2] court officer. He will bring it to my attention and
[3] I will address your concern in the presence of these
[4] two attorneys.
[5] You've seen how this building is laid
[6] out. So it's possible, probable that you will see
[7] one or perhaps both of the attorneys in the
[8] corridor, for instance, and you will observe that
[9] they will not engage you. Do not hold it against
[10] them. Ladies and gentlemen, do not hold it against
[11] them. They're not being rude. They simply
[12] understand the need to avoid even the appearance of
[13] an impropriety.
[14] Now that essentially concludes my
[15] preliminary instructions. I trust that you have
[16] listened carefully and that you will follow them to
[17] the letter.
[18] Ms. Forchetti, Mr. Lorusso, is there
[19] anything else you wish me to bring to the attention
[20] of this jury panel?
[21] **MS. FORCHETTI:** No, Your Honor.
[22] **MR. LORUSSO:** No, Your Honor.
[23] **THE COURT:** Ladies and gentlemen, if
[24] you'd be so kind as to follow the instructions of
[25] our court crier and/or our court officer. We will
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[1] any fashion with anyone. Now, I want you to
[2] appreciate there must be a million things you can
[3] talk about with each other. One of the things you
[4] can not talk about in any fashion is this case.
[5] Please don't discuss the case amongst yourselves.
[6] Don't discuss the case with anyone else. And don't
[7] permit anyone else to discuss the case with you.
[8] The only time you may discuss this case
[9] is after you've heard all of the evidence, the
[10] attorneys have made their speeches, I have
[11] instructed you on the law, and the first 12 selected
[12] are in the room deliberating, because prior there to
[13] you will not know what you need to know about both
[14] the evidence and the law to intelligently discuss
[15] the case. So, please, don't discuss it with anyone.
[16] There are obviously certain persons with
[17] whom you should have absolutely no contact. You
[18] should not have any contact with witnesses in this
[19] case. Nor should you have any contact with the
[20] defendant. Nor should you have any contact with
[21] these attorneys. Nor should you have any contact
[22] with this judge.
[23] I hasten to add, however, if there is any
[24] matter you wish to bring to my attention, you should
[25] not hesitate to do so. The way you do that is you
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[1] proceed to part two of this jury selection process.
[2] (Jury panel exits the courtroom at 10:03 a.m.)
[3] **THE COURT:** Let the record reflect the
[4] jurors have all left the room. You may resume your
[5] position.
[6] (Pause.)
[7] **THE COURT:** Good morning. This is a
[8] public courtroom so you're all welcome. There are,
[9] however, rules. They'll be no waving at the
[10] defendant. No talking out. The defendant will not
[11] wave or speak to you. And we're going to send
[12] around a pad. You'll put your name and address on
[13] the pad. If you have a phone, take your phone out.
[14] They'll be no pictures taken. They'll be no
[15] recordings. And we'll all conduct ourselves in a
[16] civil fashion.
[17] Mr. Lorusso, Ms. Forchetti, are you
[18] ready?
[19] **MR. LORUSSO:** Yes, Your Honor.
[20] **MS. FORCHETTI:** Yes, Your Honor.
[21] **THE COURT:** Bring out the first
[22] prospective juror.
[23] **COURT CRIER:** Yes, Your Honor.
[24] (Prospective Juror No. 1 enters.)
[25] **PROSPECTIVE JUROR NUMBER ONE:** Allison
Jaclyne Wilson

[1] Ramsey.
[2] **THE COURT:** Tell us what you do for a
[3] living, please.
[4] **PROSPECTIVE JUROR NUMBER ONE:** I'm an
[5] account executive. I solve marketing and
[6] advertising sales.
[7] **THE COURT:** How long have you been in
[8] your job?
[9] **PROSPECTIVE JUROR NUMBER ONE:** A
[10] year-and-a-half.
[11] **THE COURT:** What kind of work did you do
[12] before that?
[13] **PROSPECTIVE JUROR NUMBER ONE:**
[14] Pharmaceutical sales.
[15] **THE COURT:** How long were you in
[16] pharmaceutical sales?
[17] **PROSPECTIVE JUROR NUMBER ONE:** Over a
[18] year and then I was laid off.
[19] **THE COURT:** You checked off you or
[20] someone close to you, a friend or family member, was
[21] an eyewitness to a crime?
[22] **PROSPECTIVE JUROR NUMBER ONE:** I was
[23] personally mugged and my roommate was a witness.
[24] **THE COURT:** How long ago was that?
[25] **PROSPECTIVE JUROR NUMBER ONE:** Roughly
Jaclyne Wilson

[1] jury service would be a hardship?
[2] **PROSPECTIVE JUROR NUMBER ONE:** I did.
[3] **THE COURT:** What's the nature of your
[4] hardship?
[5] **PROSPECTIVE JUROR NUMBER ONE:** I believe
[6] it constitutes a hardship because I'm in sales and
[7] there's no one to cover my territory. I have a
[8] quota for the month and if I didn't hit that quota,
[9] I can lose my job potentially. If it's going on a
[10] week of service, it might effect the numbers that I
[11] can hit for the month.
[12] **THE COURT:** You should know that citizens
[13] are protected from adverse action by their employer
[14] for jury service.
[15] **PROSPECTIVE JUROR NUMBER ONE:** Okay. I
[16] wasn't certain.
[17] **THE COURT:** All right. Thank you, ma'am.
[18] Wait for us on the other side of the door. We'll be
[19] with you momentarily.
[20] (Prospective Juror No. 1 exits.)
[21] **THE COURT:** It's not a hardship, counsel.
[22] Hardship is denied.
[23] Pass the pad.
[24] **COURT CRIER:** Your Honor, Juror No. 1
[25] will be Juror No. 12.
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[1] two years ago.
[2] **THE COURT:** Have you or anyone close to
[3] you, friend or family, ever worked in law
[4] enforcement?
[5] **PROSPECTIVE JUROR NUMBER ONE:** No.
[6] **THE COURT:** I'm sorry?
[7] **PROSPECTIVE JUROR NUMBER ONE:** No.
[8] **THE COURT:** That expands the definition
[9] to include prosecutors, public defenders, private
[10] defense lawyers, detectives, correctional
[11] officers --
[12] **PROSPECTIVE JUROR NUMBER ONE:** Both of my
[13] God parents are attorneys in Central Pennsylvania.
[14] **THE COURT:** What kind of law do they
[15] practice?
[16] **PROSPECTIVE JUROR NUMBER ONE:** My God
[17] mother is like I think just for like wills and so
[18] forth, and my Uncle Dan I don't know what kind of
[19] law he practices.
[20] **THE COURT:** If you were selected to serve
[21] on this jury, would you give both sides, the
[22] defendant and the Commonwealth, a fair trial?
[23] **PROSPECTIVE JUROR NUMBER ONE:**
[24] Absolutely.
[25] **THE COURT:** Did you raise your hand that
Jaclyne Wilson

[1] **THE COURT:** We have our 12 jurors,
[2] counsel. We must now impanel two alternates.
[3] (Prospective Juror No. 2 enters.)
[4] **PROSPECTIVE JUROR NUMBER TWO:** Adolphus
[5] Brown.
[6] **THE COURT:** Mr. Brown, I see here that
[7] you are retired.
[8] Is that correct, sir?
[9] **PROSPECTIVE JUROR NUMBER TWO:** Yes, sir.
[10] **THE COURT:** And how long have you been
[11] retired?
[12] **PROSPECTIVE JUROR NUMBER TWO:** Three
[13] years.
[14] **THE COURT:** Tell us what you did for
[15] living before your retirement.
[16] **PROSPECTIVE JUROR NUMBER TWO:** I was a
[17] dental technician.
[18] **THE COURT:** How long did you work in that
[19] trade?
[20] **PROSPECTIVE JUROR NUMBER TWO:** Twelve
[21] years.
[22] **THE COURT:** Have you personally or anyone
[23] close to you, such as a friend or family member,
[24] ever been the victim of a crime?
[25] **PROSPECTIVE JUROR NUMBER TWO:** No, sir.
Jaclyne Wilson

[1] **THE COURT:** Have you personally or anyone
[2] close to you, such as a friend or family member,
[3] ever been arrested or charged with a crime?
[4] **PROSPECTIVE JUROR NUMBER TWO:** No, sir.
[5] **THE COURT:** If you were selected to serve
[6] on this jury, would you give both sides, the
[7] defendant and the Commonwealth, a fair trial?
[8] **PROSPECTIVE JUROR NUMBER TWO:** Yes, sir.
[9] **THE COURT:** Would you be so kind to wait
[10] for us on the other side of that door. We'll be
[11] with you momentarily.
[12] (Prospective Juror No. 2 exits.)
[13] **COURT CRIER:** Your Honor, we have our
[14] first alternate, Juror No. 13.
[15] (Prospective Juror No. 3 enters.)
[16] **PROSPECTIVE JUROR NUMBER THREE:** Linda
[17] Atkinson.
[18] **THE COURT:** Tell us what you do for a
[19] living, please.
[20] **PROSPECTIVE JUROR NUMBER THREE:** I work
[21] in the taxpayer advocate service in the Internal
[22] Revenue Service.
[23] **THE COURT:** In the course of a typical
[24] day what does your job consist of?
[25] **PROSPECTIVE JUROR NUMBER THREE:** I assist
Jaclyne Wilson

[1] **PROSPECTIVE JUROR NUMBER THREE:**
[2] Manufacturing.
[3] **THE COURT:** How long ago was that?
[4] **PROSPECTIVE JUROR NUMBER THREE:** Over 20
[5] years.
[6] **THE COURT:** Was it here in Philadelphia?
[7] **PROSPECTIVE JUROR NUMBER THREE:** No.
[8] **THE COURT:** Where was it?
[9] **PROSPECTIVE JUROR NUMBER THREE:** Bucks
[10] County.
[11] **THE COURT:** Did you attend his trial?
[12] **PROSPECTIVE JUROR NUMBER THREE:** Portions
[13] of it, yes.
[14] **THE COURT:** Do you have an opinion as to
[15] whether he was treated fair or unfair?
[16] **PROSPECTIVE JUROR NUMBER THREE:** He was
[17] guilty.
[18] **THE COURT:** Is there anything about his
[19] case which would effect your ability to be a fair
[20] juror in this case?
[21] **PROSPECTIVE JUROR NUMBER THREE:** No.
[22] **THE COURT:** You also checked off that you
[23] know people in law enforcement; is that right?
[24] **PROSPECTIVE JUROR NUMBER THREE:** My
[25] son-in-law.
Jaclyne Wilson

[1] taxpayers who have problems with the IRS.
[2] **THE COURT:** How long have you been in
[3] your job?
[4] **PROSPECTIVE JUROR NUMBER THREE:** I worked
[5] for the IRS for 25 years. I've been in taxpayer
[6] advocate service for ten.
[7] **THE COURT:** Have you personally or anyone
[8] close to you, such as a friend or family member,
[9] ever been the victim of a crime?
[10] **PROSPECTIVE JUROR NUMBER THREE:** No.
[11] **THE COURT:** Have you personally or anyone
[12] close to you, such as a friend or family member,
[13] ever been arrested or charged with a crime?
[14] **PROSPECTIVE JUROR NUMBER THREE:** Yes.
[15] **THE COURT:** What relationship is that
[16] person or those persons to you?
[17] **PROSPECTIVE JUROR NUMBER THREE:** My
[18] brother.
[19] **THE COURT:** What was your brother charged
[20] with?
[21] **PROSPECTIVE JUROR NUMBER THREE:** Drug
[22] related charge.
[23] **THE COURT:** Was he charged with
[24] possessing drugs to sell to others or possessing
[25] drugs for his own use?
Jaclyne Wilson

[1] **THE COURT:** Let me remind you that
[2] earlier this morning I said that you may give no
[3] greater or lesser weight to the testimony of a
[4] police officer or other law enforcement agents
[5] simply because of his or her job. A police officer
[6] is to have his or her testimony evaluated in the
[7] same way you would that of any other witnesses.
[8] Would you accept and apply that
[9] instruction?
[10] **PROSPECTIVE JUROR NUMBER THREE:** I would.
[11] **THE COURT:** What relationship is the law
[12] enforcement?
[13] **PROSPECTIVE JUROR NUMBER THREE:** My
[14] son-in-law.
[15] **THE COURT:** What does he do for a living?
[16] **PROSPECTIVE JUROR NUMBER THREE:** He's a
[17] police officer. I think --
[18] **THE COURT:** Here in Philadelphia?
[19] **PROSPECTIVE JUROR NUMBER THREE:** Yes.
[20] **THE COURT:** Did you know any of the
[21] officers on the list that I read off?
[22] **PROSPECTIVE JUROR NUMBER THREE:** No.
[23] **THE COURT:** If you were selected to serve
[24] on this jury, would you give both sides, the
[25] defendant and the Commonwealth, a fair trial?
Jaclyne Wilson

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[1] **PROSPECTIVE JUROR NUMBER THREE:** Yes.
[2] **THE COURT:** Thank you, ma'am. Collect
[3] your belongings, please. Wait for us on the other
[4] side of the door to your left. We'll be with you
[5] momentarily.
[6] (Prospective Juror No. 3 exits.)
[7] **COURT CRIER:** Your Honor, Juror No. 3
[8] first alternate strike for defense.
[9] (Prospective Juror No. 4 enters.)
[10] **PROSPECTIVE JUROR NUMBER FOUR:** Edmond
[11] Gleaves.
[12] **THE COURT:** Tell us what you do for a
[13] living, please.
[14] **PROSPECTIVE JUROR NUMBER FOUR:** Well, I'm
[15] a contractor.
[16] **THE COURT:** How long have you been in
[17] that line of work?
[18] **PROSPECTIVE JUROR NUMBER FOUR:** I've been
[19] in there for the last 30 years.
[20] **THE COURT:** You checked off that there is
[21] a reason or reasons you could not be fair, correct?
[22] **PROSPECTIVE JUROR NUMBER FOUR:** Yes, sir.
[23] **THE COURT:** What are your reasons?
[24] **PROSPECTIVE JUROR NUMBER FOUR:** I have a
[25] medical condition right now, Your Honor.
Jaclyne Wilson

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[1] **THE COURT:** How long have you worked at a
[2] supermarket?
[3] **PROSPECTIVE JUROR NUMBER FIVE:** Five
[4] years.
[5] **THE COURT:** What do you do there?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** Produce.
[7] **THE COURT:** You work in the produce
[8] section of the supermarket?
[9] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[10] **THE COURT:** Have you ever served on a
[11] jury before?
[12] **PROSPECTIVE JUROR NUMBER FIVE:** No.
[13] **THE COURT:** Have you personally or anyone
[14] close to you, such as a friend or family member,
[15] ever been the victim of a crime?
[16] **PROSPECTIVE JUROR NUMBER FIVE:** Yes.
[17] **THE COURT:** What relationship is that
[18] person or those persons to you?
[19] **PROSPECTIVE JUROR NUMBER FIVE:** My
[20] brother.
[21] **THE COURT:** What happened to your
[22] brother?
[23] **PROSPECTIVE JUROR NUMBER FIVE:**
[24] Counterfeit money charge.
[25] **THE COURT:** He was charged with
Jaclyne Wilson

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[1] **THE COURT:** And that would effect your
[2] ability to be a fair juror?
[3] **PROSPECTIVE JUROR NUMBER FOUR:** Yes.
[4] **THE COURT:** You checked off that it would
[5] prevent you from serving; is that right?
[6] **PROSPECTIVE JUROR NUMBER FOUR:** Yes, sir.
[7] **THE COURT:** All right. Collect your
[8] belongings. Wait for us on the other side of the
[9] door to your left.
[10] **PROSPECTIVE JUROR NUMBER FOUR:** Thank you
[11] very much for your time.
[12] **THE COURT:** Did you also check off that
[13] this would be a hardship?
[14] **PROSPECTIVE JUROR NUMBER FOUR:** Yes, sir.
[15] **THE COURT:** Thank you, sir. Wait for us
[16] on the other side of the door.
[17] (Prospective Juror No. 4 exits.)
[18] **THE COURT:** I'll grant his hardship.
[19] (Prospective Juror No. 5 enters.)
[20] **PROSPECTIVE JUROR NUMBER FIVE:** Quentin
[21] Nixon.
[22] **THE COURT:** What do you do for a living,
[23] Mr. Nixon?
[24] **PROSPECTIVE JUROR NUMBER FIVE:** I work at
[25] a supermarket.
Jaclyne Wilson

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[1] possessing or distributing counterfeit money?
[2] **PROSPECTIVE JUROR NUMBER FIVE:**
[3] Possessing.
[4] **THE COURT:** The question was have you or
[5] anyone close to you ever been the victim of a crime?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** Victim?
[7] No, sir.
[8] **THE COURT:** Do you believe your brother
[9] because he was charged with a crime was a victim?
[10] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[11] **THE COURT:** Why is that?
[12] **PROSPECTIVE JUROR NUMBER FIVE:** Because
[13] he didn't know it was counterfeit.
[14] **THE COURT:** All right. Let's go to the
[15] next question.
[16] Have you personally or anyone close to
[17] you, friend or family member, ever been arrested or
[18] charged with a crime?
[19] **PROSPECTIVE JUROR NUMBER FIVE:** Yes.
[20] **THE COURT:** And what relationship is that
[21] person or those persons to you?
[22] **PROSPECTIVE JUROR NUMBER FIVE:** Myself.
[23] **THE COURT:** What were you charged with?
[24] **PROSPECTIVE JUROR NUMBER FIVE:** Armed
[25] robbery.
Jaclyne Wilson

[1] **THE COURT:** How long ago was that?
[2] **PROSPECTIVE JUROR NUMBER FIVE:** Seven
[3] years.
[4] **THE COURT:** And did you go to court on
[5] that case?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** Yeah.
[7] **THE COURT:** And what happened?
[8] **PROSPECTIVE JUROR NUMBER FIVE:**
[9] Dismissed.
[10] **THE COURT:** How many times were you
[11] arrested for armed robbery?
[12] **PROSPECTIVE JUROR NUMBER FIVE:** Once.
[13] **THE COURT:** Is that the only time you've
[14] ever been arrested?
[15] **PROSPECTIVE JUROR NUMBER FIVE:** Yes.
[16] **THE COURT:** What year was the arrest?
[17] **PROSPECTIVE JUROR NUMBER FIVE:** '03.
[18] **THE COURT:** What were the circumstances
[19] surrounding the dismissal?
[20] **PROSPECTIVE JUROR NUMBER FIVE:** The
[21] witnesses that were there said I wasn't there, which
[22] I wasn't. So it was dismissed.
[23] **THE COURT:** Did you have a preliminary
[24] hearing?
[25] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
Jaclyne Wilson

[1] two different witnesses. One witness said I was
[2] there and a couple of other witnesses said I wasn't.
[3] So I guess he found in favor of the other way.
[4] **THE COURT:** Ultimately the judge made a
[5] decision?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** He did.
[7] **THE COURT:** Did he say not guilty?
[8] **PROSPECTIVE JUROR NUMBER FIVE:** Not
[9] guilty.
[10] **THE COURT:** What's your date of birth?
[11] **PROSPECTIVE JUROR NUMBER FIVE:** September
[12] the 5th, 1985.
[13] **THE COURT:** You started off by telling us
[14] your brother was arrested and charged with a crime?
[15] **PROSPECTIVE JUROR NUMBER FIVE:** He was.
[16] **THE COURT:** And he was charged with
[17] possessing counterfeit money?
[18] **PROSPECTIVE JUROR NUMBER FIVE:**
[19] Possession, yes.
[20] **THE COURT:** Is that -- was he arrested by
[21] local authorities or by the federal authorities?
[22] **PROSPECTIVE JUROR NUMBER FIVE:** Local.
[23] **THE COURT:** What happened to his case?
[24] **PROSPECTIVE JUROR NUMBER FIVE:** Actually
[25] I don't even know.
Jaclyne Wilson

[1] **THE COURT:** It did not get past a
[2] preliminary hearing?
[3] **PROSPECTIVE JUROR NUMBER FIVE:** It got
[4] past the preliminary hearing.
[5] **THE COURT:** It went to trial?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[7] **THE COURT:** At the preliminary hearing
[8] you were held for court and then it went to trial
[9] and you were found not guilty?
[10] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[11] Not guilty.
[12] **THE COURT:** Was it dismissed or were you
[13] found not guilty?
[14] **PROSPECTIVE JUROR NUMBER FIVE:** I don't
[15] know if they're the same or not, but it was
[16] dismissed.
[17] **THE COURT:** Was there a jury trial?
[18] **PROSPECTIVE JUROR NUMBER FIVE:** A judge.
[19] **THE COURT:** So was there evidence
[20] presented at the trial?
[21] **PROSPECTIVE JUROR NUMBER FIVE:** Just a
[22] witness testimony.
[23] **THE COURT:** The witness testified and the
[24] judge made a decision?
[25] **PROSPECTIVE JUROR NUMBER FIVE:** It was
Jaclyne Wilson

[1] **THE COURT:** Is it still open?
[2] **PROSPECTIVE JUROR NUMBER FIVE:** No, sir.
[3] It's over with.
[4] **THE COURT:** When was he arrested? What
[5] year?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** '01, '02.
[7] **THE COURT:** And you don't know whether it
[8] was dismissed, whether he went to trial and was
[9] convicted, whether he went to trial and was
[10] acquitted?
[11] **PROSPECTIVE JUROR NUMBER FIVE:** Wasn't
[12] convicted.
[13] **THE COURT:** Does he live with you?
[14] **PROSPECTIVE JUROR NUMBER FIVE:** No. He
[15] stays in Virginia.
[16] **THE COURT:** Was this case here in
[17] Philadelphia?
[18] **PROSPECTIVE JUROR NUMBER FIVE:** It was in
[19] Virginia.
[20] **THE COURT:** Is there anything about your
[21] arrest and subsequent trial which would effect your
[22] ability to be a fair juror in this case?
[23] **PROSPECTIVE JUROR NUMBER FIVE:** I don't
[24] believe so.
[25] **THE COURT:** Is there anything about your
Jaclyne Wilson

[1] brother's arrest which would effect your ability to
[2] be a fair juror in this case?
[3] **PROSPECTIVE JUROR NUMBER FIVE:** No, sir.
[4] **THE COURT:** Do you hold it against the
[5] Commonwealth that you were arrested?
[6] **PROSPECTIVE JUROR NUMBER FIVE:** It wasn't
[7] even the Commonwealth's fault.
[8] **THE COURT:** Do you hold it against law
[9] enforcement generally?
[10] **PROSPECTIVE JUROR NUMBER FIVE:** They were
[11] doing their job. I hold it against the witness.
[12] **THE COURT:** You also -- would that in any
[13] way effect your ability to objectively evaluate
[14] witnesses' testimony in this case?
[15] **PROSPECTIVE JUROR NUMBER FIVE:** No, sir.
[16] **THE COURT:** You also checked off that you
[17] or someone close to you was an eyewitness to a
[18] crime.
[19] Is that something we already discussed or
[20] something else?
[21] **PROSPECTIVE JUROR NUMBER FIVE:** Something
[22] that --
[23] **THE COURT:** Same thing?
[24] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[25] **THE COURT:** And, finally, you said that
Jaclyne Wilson

[1] **THE COURT:** Tell us what you do for a
[2] living, please.
[3] **PROSPECTIVE JUROR NUMBER SIX:** I'm a
[4] human resource director for University of Penn, the
[5] Department of Facilities and Real Estate Services.
[6] **THE COURT:** How long have you been in
[7] your job?
[8] **PROSPECTIVE JUROR NUMBER SIX:** I've been
[9] in there since January, 2009.
[10] **THE COURT:** What did you do before that?
[11] **PROSPECTIVE JUROR NUMBER SIX:** Human
[12] resources manager for Saint Christopher's Hospital
[13] for Children.
[14] **THE COURT:** All toll how long have you
[15] worked in human resources?
[16] **PROSPECTIVE JUROR NUMBER SIX:** For a
[17] total of 20 years.
[18] **THE COURT:** Have you personally or anyone
[19] close to you, such as a friend or family member,
[20] ever been the victim of a crime?
[21] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[22] **THE COURT:** What relationship is that
[23] person or those persons to you?
[24] **PROSPECTIVE JUROR NUMBER SIX:** Cousin.
[25] **THE COURT:** More than one or one cousin?
Jaclyne Wilson

[1] you know people in law enforcement, correct?
[2] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[3] **THE COURT:** What relationship are they to
[4] you?
[5] **PROSPECTIVE JUROR NUMBER FIVE:** My cousin
[6] is a probation officer down in Virginia.
[7] **THE COURT:** Would the fact that you know
[8] people in law enforcement would that in any way
[9] effect your ability to be a fair juror in this case?
[10] **PROSPECTIVE JUROR NUMBER FIVE:** No, sir.
[11] **THE COURT:** If you were selected to serve
[12] on this jury, would you give both sides, the
[13] defendant and the Commonwealth, a fair trial?
[14] **PROSPECTIVE JUROR NUMBER FIVE:** Yes, sir.
[15] **THE COURT:** Thank you, sir. Collect your
[16] belongings. Wait for us on the other side of the
[17] door to your left. We'll be with you in a second.
[18] (Prospective Juror No 5 exits.)
[19] **COURT CRIER:** Your Honor, Juror No. 5 is
[20] strike -- alternate strike for Commonwealth.
[21] Both parties are out of strikes now, Your
[22] Honor.
[23] (Prospective Juror No. 6 enters.)
[24] **PROSPECTIVE JUROR NUMBER SIX:** Chereese
[25] Martin.
Jaclyne Wilson

[1] **PROSPECTIVE JUROR NUMBER SIX:** More than
[2] one.
[3] **THE COURT:** How many?
[4] **PROSPECTIVE JUROR NUMBER SIX:** Two.
[5] **THE COURT:** First cousin, male or female?
[6] **PROSPECTIVE JUROR NUMBER SIX:** Male.
[7] **THE COURT:** What happened to him?
[8] **PROSPECTIVE JUROR NUMBER SIX:** He was
[9] shot.
[10] **THE COURT:** Sorry to hear that.
[11] Did he recover?
[12] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[13] **THE COURT:** And was anyone arrested?
[14] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[15] **THE COURT:** Second cousin, male or
[16] female?
[17] **PROSPECTIVE JUROR NUMBER SIX:** Male.
[18] **THE COURT:** What happened to him?
[19] **PROSPECTIVE JUROR NUMBER SIX:** Assault.
[20] **THE COURT:** Did he recover?
[21] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[22] **THE COURT:** Was anyone arrested?
[23] **PROSPECTIVE JUROR NUMBER SIX:** No.
[24] **THE COURT:** If you were selected to serve
[25] on this jury, could you set those occurrences aside
Jaclyne Wilson

[1] and judge this case based on the evidence and the
[2] law?
[3] **PROSPECTIVE JUROR NUMBER SIX:** Yes, sir.
[4] **THE COURT:** Have you personally, ma'am,
[5] or anyone close to you, such as a friend or family
[6] member, ever been arrested or charged with a crime?
[7] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[8] **THE COURT:** What relationship is that
[9] person or those persons to you?
[10] **PROSPECTIVE JUROR NUMBER SIX:** Cousin.
[11] **THE COURT:** How many?
[12] **PROSPECTIVE JUROR NUMBER SIX:** Three.
[13] **THE COURT:** First cousin, male or female?
[14] **PROSPECTIVE JUROR NUMBER SIX:** Cousin,
[15] male.
[16] **THE COURT:** What was he charged with?
[17] **PROSPECTIVE JUROR NUMBER SIX:** Assault
[18] and gun charges.
[19] **THE COURT:** How long ago was that arrest?
[20] **PROSPECTIVE JUROR NUMBER SIX:** Fifteen
[21] years ago.
[22] **THE COURT:** Did you attend his trial?
[23] **PROSPECTIVE JUROR NUMBER SIX:** No.
[24] **THE COURT:** Do you have an opinion as to
[25] whether he was treated fair or unfair?
Jaclyne Wilson

[1] **THE COURT:** And how long ago was his
[2] arrest?
[3] **PROSPECTIVE JUROR NUMBER SIX:** Six years
[4] ago.
[5] **THE COURT:** And did you attend his trial?
[6] **PROSPECTIVE JUROR NUMBER SIX:** No.
[7] **THE COURT:** Do you have an opinion as to
[8] whether he was treated fair or unfair?
[9] **PROSPECTIVE JUROR NUMBER SIX:** No.
[10] **THE COURT:** Is there anything about any
[11] of these occurrences which would effect your ability
[12] to be a fair juror in this case?
[13] **PROSPECTIVE JUROR NUMBER SIX:** No.
[14] **THE COURT:** Do you hold it against the
[15] Commonwealth that your cousins were arrested?
[16] **PROSPECTIVE JUROR NUMBER SIX:** No.
[17] **THE COURT:** You checked off that you or
[18] someone close to you was an eyewitness to a crime.
[19] Is that something we've already discussed
[20] or something else?
[21] **PROSPECTIVE JUROR NUMBER SIX:** I'm sorry.
[22] Can you repeat that?
[23] **THE COURT:** You also checked off on this
[24] form that either you or someone close to you was an
[25] eyewitness to a crime and I wanted to know if that
Jaclyne Wilson

[1] **PROSPECTIVE JUROR NUMBER SIX:** No.
[2] **THE COURT:** Second cousin, is he male or
[3] female?
[4] **PROSPECTIVE JUROR NUMBER SIX:** Male.
[5] **THE COURT:** Is that cousin a male or
[6] female?
[7] **PROSPECTIVE JUROR NUMBER SIX:** Male.
[8] **THE COURT:** What was that cousin charged
[9] with?
[10] **PROSPECTIVE JUROR NUMBER SIX:** Assault.
[11] **THE COURT:** How long ago?
[12] **PROSPECTIVE JUROR NUMBER SIX:** A year
[13] ago.
[14] **THE COURT:** Is that case still open?
[15] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[16] **THE COURT:** Do you have an opinion as to
[17] whether your cousin thus far has been treated fair
[18] or unfair?
[19] **PROSPECTIVE JUROR NUMBER SIX:** No.
[20] **THE COURT:** And the third cousin, male or
[21] female?
[22] **PROSPECTIVE JUROR NUMBER SIX:** Male.
[23] **THE COURT:** What was he charged with?
[24] **PROSPECTIVE JUROR NUMBER SIX:**
[25] Attempted -- I think attempted murder.
Jaclyne Wilson

[1] was something we've already discussed or if it's
[2] something else.
[3] **PROSPECTIVE JUROR NUMBER SIX:** It was
[4] something else.
[5] **THE COURT:** Who made the observations?
[6] Who was the witness?
[7] **PROSPECTIVE JUROR NUMBER SIX:** It was a
[8] male cousin.
[9] **THE COURT:** What did he see?
[10] **PROSPECTIVE JUROR NUMBER SIX:** He
[11] witnessed someone being robbed.
[12] **THE COURT:** Is there anything about what
[13] he saw which would effect your ability to be a fair
[14] juror?
[15] **PROSPECTIVE JUROR NUMBER SIX:** No.
[16] **THE COURT:** Finally, ma'am, you checked
[17] off that you know people in law enforcement.
[18] Is that right?
[19] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[20] **THE COURT:** What relationship are they to
[21] you?
[22] **PROSPECTIVE JUROR NUMBER SIX:** Uncle and
[23] aunt.
[24] **THE COURT:** Tell us what your uncle does
[25] and tell us what your aunt does.
Jaclyne Wilson

[1] **PROSPECTIVE JUROR NUMBER SIX:** I have an
[2] uncle who is a police officer. My aunt was a judge.
[3] **THE COURT:** What's your aunt's name?
[4] **PROSPECTIVE JUROR NUMBER SIX:** Kathryn
[5] Streeter Lewis.
[6] **THE COURT:** Would the fact that you know
[7] people in law enforcement, would that in any way
[8] effect your ability to be a fair juror?
[9] **PROSPECTIVE JUROR NUMBER SIX:** No.
[10] **THE COURT:** If you were selected to serve
[11] on this jury, would you give both sides a fair
[12] trial, the defendant and the Commonwealth?
[13] **PROSPECTIVE JUROR NUMBER SIX:** Yes.
[14] **THE COURT:** Thank you, ma'am. Wait for
[15] us, please, on the other side of the door to your
[16] left. We'll be with you momentarily.
[17] (Prospective Juror No. 6 exits.)
[18] **COURT CRIER:** Juror No. 6 is Juror
[19] No. 14, Your Honor. We have our 14.
[20] **THE COURT:** All right. Counsel, is there
[21] any need to impanel any additional jurors?
[22] **MR. LORUSSO:** No.
[23] **THE COURT:** Ms. Forchetti?
[24] **MS. FORCHETTI:** I don't see one,
[25] Your Honor.
Jaclyne Wilson

[1] concern is simply that I don't want a witness to
[2] come in and then make an identification.
[3] **THE COURT:** I understand.
[4] **MR. LORUSSO:** So I would ask the Court
[5] since that's the representation, I don't know how to
[6] get around it, frankly. I was going to suggest
[7] maybe an out of the jury scenario but then because,
[8] of course, if he makes an identification under those
[9] circumstances or she, whoever the witness is, then
[10] that happens. I don't see that there's any
[11] indication in any of the discovery that any of these
[12] witnesses was in any position to make an
[13] identification although one says he thinks he could.
[14] **MS. FORCHETTI:** Your Honor, if I can
[15] address it?
[16] **THE COURT:** Go ahead.
[17] **MS. FORCHETTI:** In speaking with the
[18] other civilian witnesses who were present at the
[19] scene of the shooting, none of whom represented that
[20] they could make an identification. The only
[21] exception being Kyle Holman who saw the alleged
[22] shooter run past his driveway shortly after the
[23] shooting. However, he was interviewed after this
[24] defendant was already arrested. So he was not shown
[25] a photo array or subject to any identification
Jaclyne Wilson

[1] **THE COURT:** Mr. Lorusso, I'm sorry?
[2] **MR. LORUSSO:** No, Your Honor.
[3] **THE COURT:** All right. So we have our
[4] jury of 12, plus 2. I suppose you need to get them
[5] organized and get the other people up here.
[6] In the interim, is there anything we need
[7] to address?
[8] **MR. LORUSSO:** No, Your Honor.
[9] **MS. FORCHETTI:** No, Your Honor.
[10] **THE COURT:** All right. May we release
[11] the additional panel members?
[12] **MR. LORUSSO:** Yes, Your Honor.
[13] **THE COURT:** I was going to bring to your
[14] attention that if the two of you were fortunate
[15] enough and we got to No. 11, she's formally my law
[16] clerk.
[17] **MS. FORCHETTI:** I recognized her.
[18] **THE COURT:** But we didn't get there.
[19] (Short recess.)
[20] **MR. LORUSSO:** This is in regards to
[21] potential identification testimony of witnesses.
[22] I've just spoken with Ms. Forchetti and she has
[23] indicated that in speaking with her witnesses, none
[24] of them are -- they have told her that they will not
[25] make an identification. Is that correct? And my
Jaclyne Wilson

[1] procedures. In speaking with him last night, it did
[2] not appear that he felt he could make an
[3] identification.
[4] **MR. LORUSSO:** So my only request under
[5] those circumstances would be either to A, preclude
[6] him from making an identification or B, order a
[7] line-up unless he says that I wouldn't know anybody
[8] on the record.
[9] **THE COURT:** Why wasn't a request for a
[10] line-up made previously?
[11] **MR. LORUSSO:** It should have been and
[12] I --
[13] **THE COURT:** It's kind of unrealistic to
[14] expect that on the second day of trial in a case
[15] that we are recessing for two days to accommodate
[16] your schedule, that we can order a line-up at 9:30
[17] a.m., which is the time now, and have that matter
[18] resolved before we are obliged to complete selecting
[19] the jury and commence evidence in the case.
[20] This case has been around for a long,
[21] long time. If there was a motion for a line-up and
[22] witnesses didn't appear, then I could order
[23] preclusion, but how could I in good faith say to Mr.
[24] Holman, You will be precluding from identifying the
[25] defendant because defense counsel didn't make a
Jaclyne Wilson

[1] request for a line-up?
[2] **MR. LORUSSO:** I understand.
[3] **THE COURT:** All right.
[4] (Pause.)
[5] **THE COURT:** This is case of Commonwealth
[6] vs. Johnnie Simmons, CP-51-CR-0004773-2011.
[7] Mr. Simmons is here with his attorney, Mr. Lorusso.
[8] The Commonwealth by Ms. Forchetti.
[9] Let's have the defendant sworn, please.
[10] ...JOHNNIE SIMMONS, after having been
[11] first duly sworn, was examined and testified as
[12] follows:
[13] ---
[14] **COURT CRIER:** State your name for the
[15] record and spell your last name.
[16] **THE DEFENDANT:** Johnnie Simmons,
[17] S-I-M-M-O-N-S.
[18] **THE COURT:** Now, would you state for the
[19] record, ma'am, the charges you're moving on, the
[20] count number, the offense and the grading, please.
[21] **MS. FORCHETTI:** Sure. Your Honor, the
[22] Commonwealth is moving on Count 1, attempted murder,
[23] graded generally as a felony.
[24] Count 2, aggravated assault as a felony
[25] of the first degree.
Jaclyne Wilson

[1] **THE COURT:** What's your pleasure?
[2] **MR. LORUSSO:** I would ask Your Honor to
[3] forgo arraignment on that charge until after the
[4] verdict.
[5] **THE COURT:** Understanding full well that
[6] the failure to do so will not give rise to double
[7] jeopardy?
[8] **MR. LORUSSO:** Yes, Your Honor.
[9] **THE COURT:** Will not create a Campana
[10] problem?
[11] **MR. LORUSSO:** Yes, Your Honor.
[12] **THE COURT:** Do you have any objection to
[13] that procedure, ma'am?
[14] **MS. FORCHETTI:** No, Your Honor.
[15] **THE COURT:** All right. The 6105 is
[16] severed. We'll take a short recess. Mr. Lorusso,
[17] please go over the arraignment process with your
[18] client because it will be done in front of the jury.
[19] Please advise how you wish the defendant to be
[20] arraigned and make sure the charges are the ones
[21] that you want him arraigned on.
[22] Take a short recess.
[23] (Pause.)
[24] **THE COURT:** We are back in session with
[25] our trial case. Mr. Simmons is here with his
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[1] Count 3, criminal conspiracy as a felony
[2] of the first degree with the criminal objective
[3] being aggravated assault and/or attempted murder.
[4] Count 4, possession of a firearm by a
[5] prohibited person as a felony of the second degree.
[6] I might suggest to the Court that we arraign the
[7] defendant on that charge outside the presence of the
[8] jury before we proceed.
[9] Count 5, firearms not to be carried
[10] without a license as a felony of the third degree.
[11] Count 7, possession of an instrument of
[12] crime as a misdemeanor of the first degree.
[13] **THE COURT:** Mr. Lorusso, are you moving
[14] to sever 6105?
[15] **MR. LORUSSO:** Yes, Your Honor.
[16] **THE COURT:** Motion is granted.
[17] Now, Ms. Forchetti has suggested
[18] arraigning the defendant outside the presence of the
[19] jury on 6105. Obviously, if you're moving to sever
[20] and I granted it, we can hole off on arraignment
[21] until after the verdict on the underlying offenses.
[22] However, if you so request you will waive any right
[23] to allege a Campana violation or double jeopardy.
[24] Do you understand that?
[25] **MR. LORUSSO:** Yes, Your Honor.
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[1] attorney, Mr. Lorusso. Ms. Forchetti for the
[2] Commonwealth.
[3] Counsel, after we selected Juror No. 12
[4] and two alternates this morning and after we
[5] released the remaining panel members, Juror No. 14
[6] advised Mr. Menna that she has a medical procedure
[7] scheduled for ten o'clock on Monday. That is after
[8] I pointed out to them that we would be in recess on
[9] Thursday and Friday and we would resume the case on
[10] Monday. One would think she would have brought this
[11] to our attention during the voir dire. She did not.
[12] So I'm open to suggestions as to how you
[13] wish to deal with this.
[14] **MR. LORUSSO:** Whatever the Court's
[15] pleasure from my end. If Your Honor wants to just
[16] use 13, it's fine. If you want to voir dire an
[17] additional juror, that's fine. If you want to
[18] recess until Monday afternoon or Tuesday, that's
[19] fine. Whatever the Court's pleasure.
[20] **MS. FORCHETTI:** I'm fine with proceeding
[21] with just 13. I don't see it as being a fairly long
[22] case. I suppose there is an outside chance that
[23] with a recess of two days we may lose someone over
[24] the weekend.
[25] **THE COURT:** I'm of the mind that if this
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[1] was of some importance to her she would have brought
[2] it our attention during voir dire. She did not. I
[3] don't intend to excuse her now after she's been
[4] selected. We will go with 14 and we will resume on
[5] Monday morning at nine o'clock.

[6] If, in fact, she has not been able to
[7] reschedule the matter, I'll decide then whether or
[8] not she'll be released to keep her ten o'clock
[9] appointment. I cannot imagine I would not release
[10] her if she can't reschedule it. But it's just so
[11] frustrating that she would see fit to bring it to
[12] the court officer's attention after she had been
[13] selected and after everybody else has been released
[14] and not during the process when she was here being
[15] examined.

[16] We'll take it up again at the end of the
[17] day before we recess on Wednesday.

[18] All right. Are you ready, Ms. Forchetti?

[19] **MS. FORCHETTI:** Yes.

[20] **THE COURT:** Mr. Lorusso?

[21] **MR. LORUSSO:** Yes, Your Honor.

[22] **THE COURT:** Have you --

[23] **MR. LORUSSO:** I've discussed the
[24] procedure in terms of arraignment with Mr. Simmons.

[25] **THE COURT:** All right. Since the case
Jaclyne Wilson

[1] **THE DEFENDANT:** Johnnie Simmons,
[2] S-I-M-M-O-N-S.

[3] **COURT CRIER:** Johnnie Simmons, to this
[4] docket number, CP-51-CR-0004773-2011, you're being
[5] charged with criminal attempted murder, how do you
[6] plead, sir, guilty or not guilty?

[7] **THE DEFENDANT:** Not guilty.

[8] **COURT CRIER:** To the same document
[9] number, you're being charged with aggravated
[10] assault, how do you plead, sir, guilty or not
[11] guilty?

[12] **THE DEFENDANT:** Not guilty.

[13] **COURT CRIER:** To the same docket number,
[14] sir, you're being charged with conspiracy, how do
[15] you plead, sir, guilty or not guilty?

[16] **THE DEFENDANT:** Not guilty.

[17] **THE COURT:** To the same document number,
[18] you're being charged with firearms not to be carried
[19] without a license, how do you plead, sir, guilty or
[20] not guilty?

[21] **THE DEFENDANT:** Not guilty.

[22] **COURT CRIER:** To the same document
[23] number, you're being charged with possession of an
[24] instrument of crime, how do you plead, sir, guilty
[25] or not guilty?

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[1] will last three to four days or the jurors will take
[2] notes, however, the note taking will commence after
[3] the speeches, your opening, rather.

[4] You've discussed the arraignment,
[5] Ms. Forchetti?

[6] **MS. FORCHETTI:** Yes.

[7] **THE COURT:** All right. So are we ready
[8] to bring the jurors out?

[9] **MR. LORUSSO:** Yes, Your Honor.

[10] **THE COURT:** We'll bring the jurors out.
[11] We'll swear in the jury and then we'll arraign the
[12] defendant.

[13] Did you make a decision, Mr. Lorusso?
[14] Will you be following the prosecutor?

[15] **MR. LORUSSO:** Yes, Your Honor.

[16] **THE COURT:** Okay.

[17] (Jury enters the courtroom at 11:22 a.m.)

[18] **THE COURT:** Good morning, ladies and
[19] gentlemen.

[20] Shall we have the jury sworn in?

[21] **COURT CRIER:** Yes, Your Honor.

[22] (Jury panel sworn.)

[23] **COURT CRIER:** Will the defendant please
[24] rise.

[25] State your name for the record.
Jaclyne Wilson

[1] **THE DEFENDANT:** Not guilty.

[2] **COURT CRIER:** Sir, after pleading not
[3] guilty, how do you wish to be tried, by a jury of
[4] your peers or by the Honorable Judge?

[5] **THE DEFENDANT:** By a jury.

[6] **COURT CRIER:** Your Honor, defendant has
[7] pled not guilty to all charges and wishes to be
[8] tried by a jury of his peers, sir.

[9] **THE COURT:** Thank you, sir.

[10] Ladies and gentlemen, you may be seated.

[11] Members of the jury, I must now give you
[12] some preliminary instructions and I shall give
[13] continuing instructions throughout the case as they
[14] may be needed. You must understand that a
[15] fundamental principle of our system of criminal law
[16] is that the defendant is presumed to be innocent.
[17] So the fact that Johnnie Simmons was arrested and is
[18] charged with crimes is not evidence against him.
[19] Further, for the defendant is presumed innocent
[20] throughout the trial and it continues unless and
[21] until you conclude based on the evidence that the
[22] Commonwealth has proven his guilt beyond a
[23] reasonable doubt.

[24] So a defendant has no burden to prove
[25] that he is not guilty. Instead it is the

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[1] Commonwealth that has the burden of proving each and
[2] every element of the crimes charged and that the
[3] defendant is guilty of those crimes beyond a
[4] reasonable doubt. And, finally, defendants are
[5] accorded a right of silence at trial. So you must
[6] not hold it against the defendant. You may not draw
[7] an inference of guilt from the fact that he does not
[8] testify, should he elect to invoke his right of
[9] silence.

[10] Members of the jury, you are about to
[11] perform one of the most serious duties of
[12] citizenship. You are going to decide whether the
[13] defendant, Johnnie Simmons, is or is not guilty of
[14] the charges lodged against him by the Commonwealth
[15] of Pennsylvania. So it is most important that you
[16] appreciate that this is a matter of great importance
[17] for both sides. To that end, bear in mind that the
[18] way you ladies and gentlemen perform your duty as
[19] the jury is as important to the administration of
[20] justice as the way I perform my duty as judge, the
[21] way Ms. Forchetti performs her duty as prosecutor
[22] and the way Mr. Lorusso performs his duty as defense
[23] counsel. So, please, ladies and gentlemen, be
[24] mindful of your and pay close attention to
[25] everything that is said and done in this courtroom

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[1] defense counsel may present evidence for the
[2] defendant. But you should keep in mind the
[3] defendant has no obligation to offer evidence or to
[4] testify himself. The assistant district attorney,
[5] of course, has the right to cross-examine any
[6] witness that might be called by the defense.

[7] After all the evidence has been
[8] presented, the attorneys for both sides will then be
[9] afforded an opportunity to make closing arguments to
[10] you. After which I shall give you my final charge
[11] which will include instructions on the rules of law
[12] that apply to this case and whatever additional
[13] legal guidance I think you will need for your
[14] deliberations. You will then retire as a body to
[15] the jury room to deliberate and to decide what your
[16] verdict will be.

[17] Please, ladies and gentlemen, bear in
[18] mind that there is a division of responsibility in a
[19] trial. I've outlined to you the prosecutor's role
[20] and defense counsel's role. It is my responsibility
[21] during the course of this trial to decide all
[22] questions of law and you must on your oath both
[23] accept and follow my rulings with regards to the law
[24] whether or not you agree with them. I am
[25] not -- however, I am not the judge of the facts of

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[1] so you, ladies and gentlemen, can well perform your
[2] duty as fact finders.

[3] I shall now describe for you in a general
[4] way what will take place during the course of this
[5] trial. Now, after I conclude these preliminary
[6] instructions, the assistant district attorney whom I
[7] shall from time to time refer to as the
[8] Commonwealth's attorney, Ms. Forchetti, will make
[9] what's called an opening statement to you in which
[10] she will outline for you the Commonwealth's case
[11] against the defendant. Thereafter, Mr. Lorusso,
[12] defendant's attorney, may make an opening statement
[13] either immediately following the prosecutor's
[14] remarks or later in the trial.

[15] After these statements have been made,
[16] the assistant district attorney will commence the
[17] presentation of evidence. Now, she may call
[18] witnesses to testify and, if appropriate, offer
[19] physical exhibits. Mr. Lorusso as counsel for the
[20] defendant has a right to cross-examine any witness
[21] called by the assistant district attorney in order
[22] to test the truthfulness and/or accuracy of that
[23] witness's testimony.

[24] After the assistant district attorney has
[25] concluded presentation of the Commonwealth's case,
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[1] this case. So it is not for me to decide what the
[2] facts are concerning the charges against this
[3] defendant. You jurors, the jury is the sole judge
[4] of the facts. So it will be your responsibility at
[5] the end of this trial when you retire to deliberate
[6] to evaluate the evidence and from that evidence
[7] determine what the facts are.

[8] You have an obligation as aforementioned
[9] to accept and apply the rules of law which I shall
[10] give you to those facts and then you must decide
[11] whether the defendant has or has not been proven
[12] guilty beyond a reasonable doubt to the charges made
[13] against him.

[14] Now, in order to decide the facts of this
[15] case, you will be called upon to judge credibility.
[16] By that I mean accuracy and the truthfulness of the
[17] testimony and you will be called upon to weigh the
[18] testimony of each witness and any other evidence
[19] presented. So, again, by credibility I mean
[20] truthfulness and accuracy.

[21] When you judge credibility and weight to
[22] a witness's testimony, you will decide whether you
[23] believe some, all or none of his or her testimony
[24] and you will also decide how important that
[25] testimony is to the resolution of the issues before

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[1] you. So, please, ladies and gentlemen, use your
[2] understanding of human nature and your own common
[3] **sense to this end:** Observe each witness as he or
[4] she testifies and be alert to anything in the
[5] testimony of the witness or the behavior of the
[6] witness which will assist you in assessing
[7] truthfulness, accuracy and what weight to assign
[8] that testimony and the other evidence in the case.

[9] Now, under the rules of court you have
[10] each been distributed note pads and pens in the
[11] event you wish to take notes during this trial. You
[12] may not access that material until the first witness
[13] is called and I remind you that you are under no
[14] obligation to take notes during the trial. It is
[15] entirely up to you if you wish to take notes to help
[16] you remember what witnesses said and to use during
[17] your deliberations.

[18] If you do take notes, remember that one
[19] of your responsibilities as a juror is to observe
[20] the demeanor of witnesses to help you assess their
[21] credibility. So do not become so involved with note
[22] taking that it interferes with your ability to
[23] observe a witness as he or she testifies or
[24] distracts you from hearing questions asked of the
[25] witnesses or the answers given by the witnesses.

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[1] completely confidential and neither I, nor the
[2] attorneys, nor anyone else will ever read your notes
[3] now or in the future. In fact, after you reached
[4] your verdict in this case, your notes will be
[5] immediately destroyed.

[6] We do have, ladies and gentlemen, as you
[7] can plainly see a court reporter who's taking down
[8] an official transcription of these proceedings. So
[9] if you should miss a question as it's asked or an
[10] and as it's given, please, raise your hand
[11] immediately and we can have her read back whatever
[12] it is you may have just missed.

[13] Each of you on your oath must keep an
[14] open mind throughout this trial. So you should
[15] avoid forming opinions about any disputed questions
[16] until the trial is over and you commence your
[17] deliberations. Do not talk with each other about
[18] the evidence or any matter relating to whether or
[19] not the defendant has or has not been proven guilty
[20] beyond a reasonable doubt until I send you to the
[21] jury room to deliberate on your verdict. See, only
[22] then will you know what you need to know about both
[23] the evidence and the law. So only then will you be
[24] in a position to discuss the case fairly and
[25] intelligently.

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[1] Your notes may help you refresh your recollection as
[2] to what the testimony was and should, therefore, be
[3] treated as a supplement to rather than a substitute
[4] for your memory. Your notes are only to be used as
[5] memory aids and should not take precedence over your
[6] independent recollection of the evidence.

[7] Those of you who do not take notes should
[8] not be overly influenced by the notes of other
[9] jurors. It is just as easy to write something down
[10] incorrectly as it is to remember it incorrectly and
[11] your fellow jurors' notes are entitled to no greater
[12] weight than each juror's independent recollection of
[13] the evidence.

[14] Although you may refer to your notes
[15] during you deliberations, give no more or no less
[16] weight to the view of a fellow juror just because
[17] that juror did or did not take notes. Finally, you
[18] are permitted to use your notes for your
[19] deliberations. The only notes you may use are the
[20] ones you write in this courtroom during these
[21] proceedings on the materials that have been
[22] distributed by the court staff.

[23] Each time we recess or adjourn, your
[24] notes will be collected and secured by the court
[25] staff. Bear in mind, however, that your notes are

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[1] When you deliberate on your verdict, the
[2] law allows you to consider only the evidence, the
[3] arguments and the instructions that were properly
[4] presented to you. So you must avoid anything that
[5] might result in your being exposed to outside
[6] information or influence. Specifically, jurors, do
[7] not discuss this case with anyone. Don't discuss it
[8] with your friends, your family members. Don't
[9] discuss it with other people at home. Don't discuss
[10] it with your business associates. Please, don't
[11] discuss the case.

[12] Now, we do not expect there to be any
[13] media coverage of this case. Nevertheless, I give
[14] **you the following instructions:** Please, do not
[15] read, listen to or watch anything that might be
[16] in the media about the case. Do not try to get
[17] information relevant to this case on your own.
[18] Don't go to the scene. Don't conduct your own
[19] investigation. Don't do any research. Don't
[20] perform any experiments. Ladies and gentlemen, with
[21] great importance, please, don't consult the
[22] internet. You see, it is most important that the
[23] only information you have when you retire to
[24] deliberate is the same information that we all saw
[25] and heard here together during these proceedings in

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[1] this courtroom.

[2] Now, if you should be approached by
[3] someone, anyone or if you should see or hear
[4] something you think you should not have seen or
[5] heard, please, notify one of the court officers or
[6] the court crier about it immediately and he will
[7] then bring it to my attention and I will address you
[8] in the presence of these two attorneys.

[9] Jurors, if you think you saw or heard
[10] something that you should not have seen or heard,
[11] please, don't go back to the jury room and tell your
[12] fellow jurors what it is you may have seen or heard
[13] because if after I question you it becomes necessary
[14] to excuse you, hopefully we can continue in your
[15] absence without having to start all over again.

[16] Members of the jury, statements made by
[17] the attorneys do not constitute evidence, so they
[18] are not binding on you. In fact, the questions
[19] which the attorneys ask of the witnesses are not
[20] themselves evidence. Rather, it is the witness's
[21] answers which constitutes the evidence for your
[22] consideration.

[23] Sometimes there will be objections. One
[24] attorney will object to a question asked by the
[25] other attorney. If I overruled the objection to the

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[1] appears that the issue is one that will consume some
[2] time, I will invite you, ladies and gentlemen, to go
[3] into the jury room where you can be comfortable and
[4] the attorneys and I will take up the issue here in
[5] open court.

[6] I remind you that there are persons with
[7] whom you should not have any contact. You should
[8] not have any contact with witnesses in this case.
[9] Nor should you have any contact with the defendant.
[10] Nor should you have any contact with the attorneys
[11] nor should you have any contact with this judge.

[12] As aforementioned, let me add that if at
[13] any time as a matter you wish to bring to my
[14] attention, the way you do that is to bring it to the
[15] attention of the court officer or court crier. He
[16] will bring it to my attention and I will address
[17] your concern in the presence of these two attorneys.
[18] I repeat that you have observed how this building is
[19] laid out and I remind you that it's probable that
[20] you will see one or perhaps both of the attorneys
[21] in the corridor and be advised they will not engage
[22] you. Again, do not hold it against them. They're
[23] not being rude. They simply understand the need to
[24] avoid even an appearance of an impropriety.

[25] Ladies and gentlemen, your comfort is of
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[1] question, then you may consider the answer.

[2] However, if I sustained the objection to the
[3] question, I will not allow an answer to be given and
[4] if one has already been given, I will most likely
[5] direct you to disregard it and you must do so.

[6] It is possible, ladies and gentlemen,
[7] that I might question a witness myself. Any such
[8] question will not reflect and is not intended to
[9] reflect any opinion on my part about that witness
[10] or this case. The only purpose for which I would
[11] ask a question of a witness would be to clarify a
[12] matter for you, ladies and gentlemen of the jury.

[13] Now, the attorneys and I from time to
[14] time will have to take up matters outside of your
[15] presence. So, please, don't speculate as to why we
[16] have these sidebars, as they're call. I'll tell you
[17] **now**: The only reason I take up issues with the
[18] attorneys outside the hearing of the jury is to
[19] ensure you receive evidence in a fair and impartial
[20] manner. These sidebars will take one of three
[21] **forms**: I will either invite the attorneys to the
[22] bench, my right side or my left side. On occasion
[23] the two of them will accompany me to the anteroom,
[24] on occasion with the reporter, sometimes without the
[25] reporter, and we'll address the matter there. If it

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[1] great importance to us. So if at any time during
[2] this trial you need to break, you need to stand, you
[3] need to stretch, you need a tissue, you need a glass
[4] of water, you need to visit the facilities, do not
[5] hesitate to raise your hand and bring it to our
[6] attention so that we can accommodate you.

[7] Now, that concludes my preliminary
[8] instructions. I trust that you have listened
[9] carefully and that you will follow my instructions
[10] to the letter. The next step is for the attorneys
[11] to make their opening statements.

[12] Are you ready to proceed, Mr. Lorusso?

[13] **MR. LORUSSO**: Yes, Your Honor.

[14] **THE COURT**: Ms. Forchetti?

[15] **MS. FORCHETTI**: Yes, Your Honor.

[16] **THE COURT**: I shall call first on you,
[17] ma'am.

[18] **MS. FORCHETTI**: Thank you.

[19] Good morning, everyone. My name is Stacy
[20] Forchetti. I am the assistant district attorney
[21] assigned to this case. This case concerning code of
[22] the streets. What happened out on the streets of
[23] February 4th, 2011, at about two o'clock in the
[24] afternoon.

[25] Charles Talbert, having recently been
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[1] released on parole, was out catching up on business.
[2] He was getting a new cell phone for himself, buy
[3] some new clothes, and people came looking for him.
[4] Johnnie Simmons, the defendant in this case came
[5] looking for him. Charles Talbert had been marked.
[6] The reasons you may never hear. Someone had
[7] business, unfinished business, with Charles Talbert.
[8] And Johnnie Simmons shot him out on the street in
[9] broad daylight and left him to die in the middle of
[10] the 1300 block of Johnson Street.

[11] Also out on the street that day were an
[12] off-duty police officer who heard the gunshots and
[13] immediately came running out and went to Charles
[14] Talbert's aid. Charles Talbert at that time was
[15] fearful that his life was about to end and wanted to
[16] get to the hospital as soon as possible.

[17] The shooter ran away. Ran off. There
[18] were other witnesses out on the street. You may be
[19] surprised or you may not be surprised to hear that
[20] they didn't want to particularly get involved. Some
[21] of them needed a little coaxing to come down to the
[22] police station to talk about what they had seen.
[23] But they talk about the shooting that happened right
[24] in broad daylight and that the shooter ran off with
[25] his accomplice.

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[1] photo array, he picks him out. That's him. Circles
[2] the photo. And then is struck again by that fear.
[3] That fear that pointing him out is going to have
[4] consequences for him. So he tells the detective
[5] he's scared, but he comes to court and he testifies,
[6] Charles Talbert, and identifies Johnnie Simmons as
[7] the person who shot him.

[8] Our office had to relocate Charles
[9] Talbert to protect him. But then Charles Talbert
[10] had to go and get himself in trouble again. Charles
[11] Talbert will come to you and testify in this
[12] courtroom while in custody awaiting trial on his own
[13] charges. For you see that day Charles Talbert was
[14] selling drugs again. You will hear about that and
[15] I'm going to rely on you to judge the evidence in
[16] this case. To not judge the people because you see,
[17] you don't deserve to get shot just for selling weed.
[18] Just shooting a drug dealer isn't an excusable
[19] offense. You won't hear that that's a valid defense
[20] in any courtroom in this building. That it's okay.
[21] He was a drug dealer. It's okay to shoot him. It
[22] doesn't matter.

[23] Charles Talbert is a victim. Same as any
[24] of the other victims in this courthouse today
[25] because the law protects all of us. And you were

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[1] That accomplice is not part of this
[2] trial. You will not hear from him in this trial.
[3] You are here to determine the actions of Johnnie
[4] Simmons.

[5] When this investigation began the
[6] detectives and the police officers didn't know
[7] Charles Talbert. Didn't know Johnnie Simmons. They
[8] are just trying to get to the bottom of this
[9] evidence. And when they are able finally to talk to
[10] Charles Talbert, four days after he had been shot,
[11] in Intensive Care Unit of Albert Einstein Medical
[12] Center.

[13] He gives them a description of the person
[14] that had shot him and is shown a photographic array.
[15] When the detectives and officers begin investigating
[16] the shooting, there was a lot of word on the street.
[17] People that didn't necessarily want to come forward,
[18] but everyone in the neighborhood knew that little
[19] Johnnie was the shooter.

[20] **MR. LORUSSO:** Objection. Can we see
[21] Your Honor at sidebar?

[22] **THE COURT:** Overruled.

[23] **MS. FORCHETTI:** So Johnnie Simmons was
[24] placed in a photo array with seven other males that
[25] looked like him. When Charles Talbert is shown that
Jaclyne Wilson

[1] all selected for your common sense to judge the
[2] evidence in this case.

[3] Now, keep in mind that when Charles
[4] Talbert testifies, he has to face the person who
[5] shot him and that requires quite a bit of courage.
[6] This isn't Law and Order. This isn't a TV show.
[7] Charles Talbert is not an actor. I'm not an actor.
[8] No one is following a script. So I can't tell you
[9] right now what Charles Talbert will say. Will he
[10] come out and identify the shooter? Or will that
[11] fear set in? I can't tell you that.

[12] But what I can tell you is that the law
[13] recognizes that people get scared sometimes. And
[14] that courage may fail them. And that what he has
[15] said before carries as much weight as if he's saying
[16] it again to you.

[17] The other evidence in this case will help
[18] verify what Charles Talbert said when he identified
[19] Johnnie Simmons as the shooter. You will hear from
[20] the course of the investigation that Johnnie Simmons
[21] lives in the neighborhood where this shooting
[22] happened. That he was stopped a short time after
[23] the shooting in the same area. You will hear that
[24] the description given by the other witnesses matches
[25] up with Johnnie Simmons, the person we have sitting

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[1] in this courtroom today.
[2] So when I come and talk to you at the end
[3] of this case, we'll talk about what Charles Talbert
[4] did. How he seemed to you. Did he seem afraid.
[5] He's feeling a little vulnerable right now. But
[6] does that in any way discount the power of that
[7] identification that he made in that hospital bed
[8] thinking that might be the last time he got to talk
[9] to the police.
[10] So I will count on you to use your good
[11] judgement and common sense and judge the evidence in
[12] this case. Because the law does protect us all.
[13] The law protects Charles Talbert just as the law is
[14] protecting the rights of Johnnie Simmons. But once
[15] all of the evidence is in, that presumption of
[16] innocence will have been stripped away and you will
[17] see Johnnie Simmons for who he is, a cold-blooded
[18] shooter who left Charles Talbert to die in the
[19] middle of the street.
[20] Thank you very much for your attention.
[21] **THE COURT:** Thank you, Ms. Forchetti.
[22] Mr. Lorusso, do you wish to address the
[23] jury, sir?
[24] **MR. LORUSSO:** I do. May we see
[25] Your Honor at sidebar first?
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[1] remains to be seen based upon Mr. Talbert's
[2] testimony.
[3] Mr. Talbert at least two photographs were
[4] circled in the array of eight people. One of the
[5] photographs circled was of Johnnie Simmons and the
[6] evidence will also show in that vain that at some
[7] point in time there was a focus for some reason on
[8] Johnnie Simmons and Johnnie Simmons was actually
[9] taken into custody a couple of hours after this
[10] shooting, taken to the detective division and
[11] photographed, and this is the photograph that was
[12] used in that array. And I'm going to suggest to you
[13] that when you hear Charles Talbert's testimony and
[14] this first statement that he made, one of the first
[15] questions that he's asked is, do you know -- had you
[16] ever seen the person who shot you? Before his
[17] response was no.
[18] You'll see as the evidence proceeds that
[19] at some point there's reference to this photo array
[20] again and this photo array by the detective and
[21] actually I think the evidence will show there were
[22] three detectives in the room.
[23] Suddenly from a response of, no, I never
[24] saw this shooter before. Not only have I never seen
[25] him before, now it progresses to, oh, yes. I know
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[1] **THE COURT:** Come up, sir.
[2] (Sidebar held off the record.)
[3] **THE COURT:** Mr. Lorusso?
[4] **MR. LORUSSO:** Your Honor, Mr. Forchetti,
[5] ladies and gentlemen of the jury, good morning.
[6] My name is Vincent Lorusso. Again, I
[7] represent Johnnie Simmons. I want to initially
[8] thank all of you for taking time out from your daily
[9] routines and schedules to sit here and participate
[10] in what His Honor has clearly indicated is in line
[11] and of the utmost importance as an individual in
[12] combat. Thank you, personally and on behalf of
[13] Johnnie Simmons.
[14] I have an opportunity to tell you now
[15] what it is that I suggest the evidence is going to
[16] show or not going to show in this case. Clearly the
[17] evidence will indicate that Charles Talbert was shot
[18] multiple times back in February 4th of this year in
[19] the area of Stenton and Johnson Streets. Clearly it
[20] will indicate that Mr. Talbert was transported to
[21] the hospital. That some four days later he was
[22] shown a photographic array and the clarity of what
[23] will occur after that I suggest is not so clear.
[24] Because the evidence will indicate that in making an
[25] identification, if there was one made and that
Jaclyne Wilson

[1] Johnnie. I've known him for years. He's around the
[2] street and this is him. I think that Mr. Talbert
[3] and I don't know what he'll say today, but I can
[4] tell you that subsequently under oath he said that I
[5] didn't even make that identification. That it
[6] wasn't this person Johnnie Simmons who shot me.
[7] That I think it was the other person who shot me,
[8] but that the police were all focused on Johnnie
[9] Simmons and that's how that all came about that I
[10] said at one point that Johnnie Simmons was the
[11] shooter.
[12] And I'm going to suggest to you that that
[13] evidence is going to show to you from a defense
[14] perspective that the mentality and the focus of the
[15] police department as it relates to clearing this
[16] offense and finding somebody to charge and convict
[17] with this shooting was not unlike that of Admiral
[18] Farragut in the Battle of Mobile Bay when he said,
[19] damn the torpedoes. Full speed ahead. In this
[20] instance the police said, damn the evidence. Full
[21] speed ahead. And that's how we wind up with the
[22] focus on Johnnie Simmons and that's how we wind up
[23] subsequently with Charles Talbert.
[24] This is the first that I'm hearing this,
[25] ladies and gentlemen, in terms of a relocation of
Jaclyne Wilson

[1] Mr. Talbert. So I'm going to ask you as fact
[2] finders when you see Mr. Talbert and you have the
[3] opportunity to observe him, to make your own
[4] determination in terms of how much he needs
[5] relocation or how much fear he has for anything in
[6] this world and accord the weight due to that comment
[7] and potential evidence about him having been
[8] relocated because I'm going to suggest to you that
[9] Charles Talbert at least my having seen him for the
[10] first time doesn't create an impression of being
[11] someone who is timid and fearful. To the contrary,
[12] I'll suggest to you.

[13] And I'm going to suggest to you also that
[14] when Mr. Talbert comes up here, assuming that he
[15] does, again, for the second time, says under oath
[16] that Johnnie Simmons is not the person who shot me.
[17] That I don't want to see an innocent man convicted
[18] of these crimes. I'm going to suggest to you that
[19] there's a ring of truth to that and I'm going to
[20] certainly suggest to you that the evidence presented
[21] by the Commonwealth in and of itself is going to
[22] raise a reasonable doubt in your mind. And His
[23] Honor will instruct the jury later on on the
[24] definition of reasonable doubt and the definitions
[25] of various crimes that are charged.

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[1] jurors have left the room. This is at your request,
[2] Mr. Lorusso?

[3] **MR. LORUSSO:** Thank you, Your Honor.

[4] If the Court please, I would make a
[5] motion for a mistrial, in the alternative request a
[6] cautionary instruction based upon the comments by
[7] Ms. Forchetti that specifically everyone on the
[8] street knew Johnnie Simmons was the shooter. That
[9] puts the defense in a position of the suggestion
[10] that there's evidence in this case that won't be
[11] presented in this court but that it's evidence
[12] that's detrimental to my client and I have no
[13] opportunity to confront or challenge that evidence
[14] and yet that's what the jury has heard and I would
[15] submit the only remedy for that is a mistrial.

[16] **THE COURT:** Ms. Forchetti?

[17] **MS. FORCHETTI:** Your Honor, in the arrest
[18] memo of Officer Michael Long he states that based on
[19] an anonymous phone call given to his supervisor that
[20] they are asked to go out and apprehend Johnnie
[21] Simmons on the same day of the shooting. That is
[22] based on what anonymous witnesses are saying in the
[23] neighborhood. So that is when this defendant is
[24] brought into Northwest Detectives, as Mr. Lorusso
[25] mentioned in his opening, and a photograph is taken

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[1] At the conclusion of the Commonwealth's
[2] case, Johnnie Simmons may or may not testify.
[3] That's a determination that we'll make after
[4] discussing the evidence presented by the
[5] Commonwealth. But you've already heard Johnnie
[6] Simmons plead not guilty to these charges before you
[7] and in the event that he doesn't, I'll suggest to
[8] you later on that that's something you should
[9] consider as it relates to his position on these
[10] charges.

[11] I want to thank you, again. I'm
[12] confidential that you'll demonstrate the same degree
[13] of attention that you've so far demonstrated not
[14] only throughout the trial but through your
[15] deliberations, through the Court's charge, and into
[16] deliberations.

[17] And, again, thank you.

[18] **THE COURT:** Thank you, Mr. Lorusso.

[19] Ladies and gentlemen, we're going to take
[20] a very short break after which the presentation of
[21] evidence will commence.

[22] Would you be so kind to take the jurors
[23] out?

[24] (Jury exits the courtroom at 11:58 a.m.)

[25] **THE COURT:** Let the record reflect the
Jaclyne Wilson

[1] of him. That photograph is then used to construct a
[2] photograph array that is shown to the complainant in
[3] the case four days later.

[4] **THE COURT:** You may have a witness
[5] describe the course of the investigation. You may
[6] not have the witness state that everybody in the
[7] neighborhood knew that Mr. Simmons was the shooter
[8] unless everybody will be called to testify and
[9] subject to cross-examination.

[10] **MS. FORCHETTI:** Yes, Your Honor.

[11] **THE COURT:** What is the cautionary
[12] instruction you seek?

[13] **MR. LORUSSO:** I'd ask Your Honor to
[14] instruct the jury to disregard that comment about
[15] everybody -- disregard the comment concerning who
[16] may have suggested that Johnnie Simmons was the
[17] shooter and instruct them that the only evidence is
[18] from the witness stand again.

[19] **THE COURT:** All right. The motion for a
[20] mistrial is denied. I will give a cautionary
[21] instruction.

[22] Are we ready to proceed?

[23] **MS. FORCHETTI:** Yes, Your Honor.

[24] **MR. LORUSSO:** Perhaps, you know,
[25] peremptorily I can address that issue of the

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[1] anonymous call. I mean, I would object to a police
[2] officer testifying about receiving an anonymous call
[3] to go pick up Johnnie Simmons also.

[4] **THE COURT:** He can testify that in the
[5] course of the investigation we developed information
[6] to think it prudent to bring in Mr. Simmons, words
[7] to that effect.

[8] Do you have any objection to that?

[9] **MR. LORUSSO:** No.

[10] **THE COURT:** Okay. But if you're going to
[11] talk about what an anonymous tipster says, that
[12] violates the rule against admission of hearsay.

[13] **MS. FORCHETTI:** Yes, Your Honor.

[14] **THE COURT:** All right.

[15] (Jury enters the courtroom at 12:04 p.m.)

[16] **THE COURT:** Ladies and gentlemen, I
[17] remind you of the instruction I gave earlier that
[18] statements made by the attorneys do not constitute
[19] evidence. And, specifically, I instruct you to
[20] disregard the comment by the assistant district
[21] attorney that everybody in the neighborhood knew
[22] that Johnnie Simmons was the shooter.

[23] Now, you may, if you wish, access the
[24] pads and pens under your chair and it's entirely up
[25] to each of you whether or not you take notes.

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[1] police?

[2] **A.** Nine years.

[3] **Q.** Where have you been assigned?

[4] **A.** The 6th District, Center City, Philadelphia.

[5] **Q.** Okay. Have you spent your entire career assigned to
[6] the Center City District?

[7] **A.** Yes.

[8] **Q.** Were you on duty on February 4th, 2011, at about two
[9] o'clock in the afternoon?

[10] **A.** Actually I was off duty.

[11] **Q.** And what were you doing off duty?

[12] **A.** I was at the Genesis eyeglass place getting my glasses
[13] fixed.

[14] **Q.** Where is that located?

[15] **A.** That's at Stenton and Johnson Street. On Stenton and
[16] Johnson.

[17] **Q.** And were you with anyone?

[18] **A.** No.

[19] **Q.** Were you in uniform as you are today?

[20] **A.** No. I was in my -- I had my uniform pants on and a
[21] regular jacket.

[22] **Q.** Okay. Were you on your way to work?

[23] **A.** Yes.

[24] **Q.** Okay. Were you working a 4:00 to 12:00 shift?

[25] **A.** Yes.

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[1] You may call your first witness,

[2] Ms. Forchetti

[3] **MS. FORCHETTI:** Thank you, Your Honor.

[4] Your Honor, at this time the Commonwealth
[5] calls Police Officer Richard Alexander.

[6] ...POLICE OFFICER RICHARD ALEXANDER,
[7] after having been first duly sworn, was examined and
[8] **testified as follows:**

[9] ---

[10] **COURT CRIER:** State your name, badge
[11] number for the record and spell your last name.

[12] **THE WITNESS:** Police Officer Richard
[13] Alexander, A-L-E-X-A-N-D-E-R, Badge No. 1707, 6th
[14] District.

[15] **THE COURT:** You may proceed.

[16] **MS. FORCHETTI:** Thank you, Your Honor.

[17] ---

[18] COMMONWEALTH'S EVIDENCE

[19] ---

[20] DIRECT EXAMINATION

[21] ---

[22] **BY MS. FORCHETTI:**

[23] **Q.** Good afternoon, officer.

[24] **A.** Good afternoon, ma'am.

[25] **Q.** Officer, how long have you been with the Philadelphia
Jaclyne Wilson

[1] **Q.** Okay. But you needed your glasses fixed before you
[2] went in?

[3] **A.** Yes.

[4] **Q.** Okay. Now, while you were at this eyeglass located in
[5] the area of Stenton and Johnson Street, did anything happen
[6] that was unusual?

[7] **A.** Yes. I was at the counter. The lady had gave me back
[8] my glasses and I heard four gunshots, four to five gunshots
[9] actually.

[10] **Q.** And did you immediately recognize that sound of being
[11] of gunshots?

[12] **A.** Yes.

[13] **Q.** Had you heard gunshots before in the course of your
[14] career?

[15] **A.** Yes.

[16] **Q.** And what did do upon hearing those gunshots?

[17] **A.** Once I heard the gunshots, I turned around. I had my
[18] service weapon on me. I drew my service weapon and I drew my
[19] badge out because I was in civilian clothes and I ran to the
[20] intersection of 1300 Johnson Street.

[21] **Q.** Okay. Why did you run to that intersection?

[22] **A.** Because there I saw a male shot several times in his
[23] stomach area lying on the ground.

[24] **Q.** Okay. And how did you know that this male had been
[25] shot?

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[1] **A.** I approached the male. He told me he's been shot. I
[2] asked the male what happened. He said, Take me to the
[3] hospital. Take me to the hospital.
[4] **Q.** Okay. Did you observe anything about the male's
[5] physical condition?
[6] **A.** Yes. I noticed that he was shot several times.
[7] **Q.** Okay. And by saying that you observed that he was
[8] shot, did you notice him bleeding from anywhere?
[9] **A.** Yes. He was bleeding right around his stomach area.
[10] He had a brown jacket on so you could see that blood was
[11] coming out around his stomach area.
[12] **Q.** And upon this male asking you to take him to the
[13] hospital, what did you then do?
[14] **A.** I asked the male who shot him. I asked the male
[15] several times, Who shot you? Who shot you? He responded,
[16] Take me to the hospital. Take me to the hospital. And then I
[17] asked -- it was another gentlemen standing there and I asked
[18] the gentlemen who shot him and he said the guy's running right
[19] down that alleyway. He pointed down towards an alleyway.
[20] **Q.** And where was the alleyway located in reference to
[21] where you were?
[22] **A.** I was -- the male was in like the middle of the block,
[23] of the 1300 block of Johnson Street. There's a sneaker store
[24] on your right-hand side. There's a deli on your left-hand
[25] side and in between the deli and apartment building there's
Jaclyne Wilson

[1] where the victim was with a V. I'm handing you a pen right
[2] now.
[3] **A.** (Witness complies.)
[4] **Q.** Okay. Now, did you observe anyone going down that
[5] alleyway once another witness had pointed that out to you?
[6] **A.** Yes.
[7] **Q.** And what did you do at that time?
[8] **A.** Well, after the male had told me -- it was a male
[9] standing right here repairing his car. He was stuck in the
[10] ice. Once the male told me --
[11] **Q.** I'm sorry to interrupt you, officer.
[12] You're pointing the white Lexus depicted in the
[13] photograph?
[14] **A.** Yes. There was a male standing require there. His car
[15] was stuck in the ice due to the weather. Once he told me the
[16] male was running down the street, I proceeded to chase the
[17] male down this icy little roadway but the male turned the
[18] corner. Once the male turned the corner, I couldn't chase him
[19] no further because I ain't have a vest on. So I went back to
[20] the victim.
[21] **Q.** Officer, you did or did not have a vest on?
[22] **A.** Once he turned the corner, I ran down this alley. He
[23] turned. That's when I stopped chasing the male.
[24] **Q.** Okay. You're pointing to the right of the photograph?
[25] **A.** Yes.

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[1] like a little alleyway, like a walkway. The male was running
[2] down that walkway behind the deli and the apartment complex.
[3] **MS. FORCHETTI:** Your Honor, I would at
[4] this time ask that this photograph be marked as
[5] Commonwealth Exhibit 1.
[6] **THE COURT:** It may be marked.
[7] (Photograph marked Commonwealth Exhibit
[8] C-1 for identification.)
[9] **COURT CRIER:** Your Honor, C-1 so marked.
[10] **BY MS. FORCHETTI:**
[11] **Q.** Officer, you're being shown a photograph that's been
[12] marked as Commonwealth Exhibit 1.
[13] Do you recognize the area depicted in that
[14] photograph?
[15] **A.** Yes.
[16] **Q.** Okay. What area is that?
[17] **A.** This is the 1300 block of Johnson Street.
[18] **Q.** And what area were you in when you approached the
[19] shooting victim?
[20] **THE WITNESS:** May I turn it, sir?
[21] **THE COURT:** Yes, of course.
[22] **THE WITNESS:** I approached the shooting
[23] victim, he was like around right here.
[24] **BY MS. FORCHETTI:**
[25] **Q.** Okay. Officer, if you would be so kind as to mark
Jaclyne Wilson

[1] **Q.** Is that correct, officer?
[2] **A.** Yes. He was running right down this alleyway right
[3] here. And he turned. Once he got to like Washington Lane and
[4] Stenton, he turned and that's a corner right there so I
[5] stopped chasing him once he turned the corner.
[6] **Q.** And why is that? Why did you stop chasing him?
[7] **A.** Because I ain't have the proper gear on. I ain't have
[8] my bulletproof vest on and I didn't want him to turn the
[9] corner and him to be waiting for me around the corner.
[10] **Q.** So you were concerned for your safety at that time?
[11] **A.** Yes.
[12] **Q.** After you ended your pursuit, what did you then do?
[13] **A.** I immediately went back to the victim and I was with
[14] the victim until other uniform police officers arrived.
[15] **Q.** And how did the victim seem to you at that time?
[16] **A.** He was -- of course, he was shot and he was sweating a
[17] little bit. He had the blood coming out. He was just saying,
[18] Take me to the hospital. I want to go to the hospital.
[19] **Q.** And how long were you with the victim before medics
[20] arrived?
[21] **A.** I say around one to two minutes I was with the victim
[22] before medics arrived.
[23] **Q.** Were there a lot of other people out on the street?
[24] **A.** Yes. There were about -- had to be about five to seven
[25] people out there on the street that day.

Jaclyne Wilson

[1] Q. Did anyone at that time offer you any information with
[2] respect to the identity of the shooter?
[3] A. Yes. The gentlemen who was fixing his Lexus vehicle.
[4] It was also a couple people -- it's not on this picture but
[5] there's a store, a sneaker store like right here. It's not on
[6] this picture, and one of the other guys at the sneaker store
[7] he did as well.

[8] MS. FORCHETTI: Your Honor, I would ask
[9] that this photograph be marked as Commonwealth
[10] Exhibit 2?

[11] THE COURT: It may be.
[12] (Photograph marked Commonwealth Exhibit
[13] C-2 for identification.)

[14] COURT CRIER: C-2 so marked, Your Honor.
[15] BY MS. FORCHETTI:

[16] Q. Officer, you're being shown an exhibit that's been
[17] marked as Commonwealth Exhibit 2.

[18] Do you recognize that photograph?

[19] A. Yes.

[20] Q. Okay. What area is depicted in that photograph?

[21] A. This is Stenton Avenue here. This is the sneaker store
[22] that I was referring to earlier where the man -- as they were
[23] standing here, there was a crowd of people standing right here
[24] shovelling the snow out from the sidewalk. So there was a
[25] bunch of people standing right in front of this silver car

Jaclyne Wilson

[1] MS. FORCHETTI: Your Honor, I would ask
[2] to mark this document as Commonwealth Exhibit 3. It
[3] is a two-page document.

[4] THE COURT: Yes.
[5] (Statement (PO Alexander) marked
[6] Commonwealth Exhibit C-3 for identification.)

[7] COURT CRIER: C-3 so marked, Your Honor.
[8] BY MS. FORCHETTI:

[9] Q. Officer, you're being shown a two-page statement.
[10] Do you recognize that statement?

[11] A. Yes.

[12] Q. And whose statement is that?

[13] A. This is my statement that I gave to the detective at
[14] the time of the incident.

[15] Q. And how soon after the shooting did you give this
[16] statement?

[17] A. It had to be -- the shooting took place around 2:00
[18] something. I gave a statement at 3:05. Probably within 20 to
[19] 30 minutes of the shooting.

[20] Q. Now, you described pursuing the person that was pointed
[21] out to you as being the shooter.

[22] About how close did you get to that person?

[23] A. Probably from this courtroom to the elevators.

[24] Q. So quite a distance?

[25] A. Yeah. He had a good head start on me.

Jaclyne Wilson

[1] here. That's where the other male gave the description of the
[2] male who supposedly shot the victim.

[3] Q. And, officer, what did you do with that information?

[4] A. I immediately told the 14th District officers, uniform
[5] officers who came on location but I also held the male who
[6] gave me the information until uniform police came so they
[7] could take the male in for questioning.

[8] Q. Okay. And that male who gave you that information,
[9] what was his demeanor?

[10] A. He was very calm. He was just like, The boy who shot
[11] him, he ran down there, and just told me the information. He
[12] had a very calm demeanor.

[13] Q. Was he cooperative with the police?

[14] A. Well, at first he wasn't cooperative. I talked to him
[15] some more and then he became cooperative once uniform
[16] personnel got on location.

[17] Q. Okay. Now, officer, once the uniform 14th District
[18] police officers arrived, did you remain on the scene?

[19] A. Yes. I talked to the captain but then I left the scene
[20] then I had to go to Northwest Detectives.

[21] Q. Okay. Why did you go to Northwest Detectives?

[22] A. To give a statement on what happened.

[23] Q. And with whom did you speak?

[24] A. I forget the detective but it was a northwest
[25] detective.

Jaclyne Wilson

[1] Q. Okay. And did you ever see that person from the front?

[2] A. No.

[3] Q. Okay. You only ever saw the back?

[4] A. Yes.

[5] Q. Okay. So were you ever able to give a description of
[6] that person's face or hair?

[7] A. No.

[8] Q. Okay. What was the best description you were able to
[9] give the officers?

[10] A. The best description I gave them I said the male was
[11] around 6 feet, he had on a black hoody and black jeans or
[12] jacket. That's the best description I gave them.

[13] Q. Okay.

[14] A. At the time of the incident.

[15] Q. Were you able to tell that person's build?

[16] A. No.

[17] Q. Were you able to tell that person's race?

[18] A. No.

[19] Q. Okay. Were you able to tell the sex of that person?
[20] Whether it was a male or female?

[21] A. Going by what the witnesses say, he said it was a male.

[22] Q. Now, officer, was this the extent of your role in this
[23] investigation?

[24] A. Yes. After I gave my statement, yes. Then I returned
[25] to the 6th District.

Jaclyne Wilson

[1] Q. Okay. Were you late for work that day?
[2] A. Yes.
[3] Q. Now, did you prepare any other paperwork in connection
[4] with what you saw that day?
[5] A. No, ma'am.
[6] Q. Okay. And did you sign your statement?
[7] A. Yes.
[8] Q. Did Detective Acerenza give you a chance to review it
[9] and look it over before you signed it?
[10] A. Yes.
[11] Q. And was the detective typing it as you were talking to
[12] him?
[13] A. Yes, ma'am.
[14] Q. Thank you.
[15] MS. FORCHETTI: I don't have anymore
[16] questions.
[17] THE COURT: Mr. Lorusso, you may
[18] cross-examine.
[19] MR. LORUSSO: Thank you, Your Honor.
[20] ---
[21] CROSS - EXAMINATION
[22] ---
[23] BY MR. LORUSSO:
[24] Q. Good afternoon, officer.
[25] A. Good afternoon, sir.
Jaclyne Wilson

[1] description from; is that correct?
[2] A. Yes, sir.
[3] Q. And that individual, do you know his name?
[4] A. No, sir.
[5] Q. He was, however, transported to Northwest Detectives
[6] Division?
[7] A. Yes, sir.
[8] Q. Okay. And that individual directed your attention,
[9] this witness, in response to your question who did the
[10] shooting or words to that effect who was the shooter, is that
[11] what you asked him?
[12] A. Yes, sir.
[13] Q. And this other witness said he's running down the
[14] alleyway here?
[15] A. That's correct, sir.
[16] Q. Okay. And the alleyway is that -- which is also
[17] depicted in C-1 -- the driveway with all of snow and ice; is
[18] that correct?
[19] A. That's correct, sir.
[20] Q. All right. So you chase him down and I think you said
[21] that would be running toward Broad Street, correct?
[22] A. Yes, sorry.
[23] Q. So that would be running, fair to say, eastbound?
[24] A. Yes.
[25] Q. Okay. And you said that when he got to the corner, do
Jaclyne Wilson

[1] Q. I take it from your testimony you didn't see the actual
[2] shooting. You just heard shots; is that correct?
[3] A. That is correct.
[4] Q. And when you proceeded Genesis Eyewear would be on the
[5] north side of Stenton Avenue?
[6] A. That is correct.
[7] Q. And Philly Locker Room that's depicted in the
[8] photographs would be across the street, south side, correct?
[9] A. That's correct.
[10] Q. Caddy corner from each other?
[11] A. Yes, sir.
[12] Q. Okay. And the person who we've later come to learn was
[13] Charles Talbert was situated basically in front of the area
[14] where the Lexus is on C-1, the photograph?
[15] A. Yes, sir.
[16] Q. Okay. And you run directly across Stenton from Genesis
[17] into that area because I assume that you see a figure lying
[18] in the street?
[19] A. Yes, sir.
[20] Q. Okay. And that's when you -- strike that.
[21] He doesn't -- Mr. Talbert doesn't give you any
[22] description. He's just concerned with going to the hospital,
[23] correct?
[24] A. That's correct, sir.
[25] Q. There's another individual present that you get this
Jaclyne Wilson

[1] I take that to mean that was the first corner that one would
[2] come across in that area?
[3] A. I believe. I'm not sure. I believe that's Washington
[4] Lane but I'm not sure.
[5] Q. Okay. If I told you it was actually Duval Street,
[6] would that refresh your recollection at all?
[7] A. I didn't see a street sign so I'm not really sure
[8] because it was in the back in between the buildings so I never
[9] saw the street sign.
[10] Q. Okay.
[11] MR. LORUSSO: I'll ask this be marked as
[12] D-1 for identification.
[13] THE COURT: It may be.
[14] (Map marked Defense Exhibit D-1 for
[15] identification.)
[16] COURT CRIER: So marked D-1, Your Honor.
[17] BY MR. LORUSSO:
[18] Q. By the way, officer, you were shown a map actually when
[19] you were in Northwest Detectives Division, correct?
[20] A. Yes.
[21] Q. Okay. And was the map similar to what's been marked as
[22] D-1?
[23] A. I'm not really sure, sir, it was the same exact map.
[24] Q. Okay. Looking at D-1, do you see the intersection
[25] there of Stenton and Johnson where the "A" is?
Jaclyne Wilson

[1] **A.** Yes.
[2] **Q.** Okay. And the next street east of Johnson on that map
[3] at Stenton would be what?
[4] **A.** Is Barringer Street.
[5] **Q.** I'm sorry. Going the direction toward Washington Lane,
[6] toward Broad Street.
[7] Do you see Washington Lane there?
[8] **A.** Yes, I see Washington Lane.
[9] **Q.** Is there a street that intersects Stenton Avenue
[10] between Washington Lane and Johnson, Duval Street?
[11] **A.** Yes.
[12] **Q.** Okay. Would that be the street or if that was the
[13] street at the end of this driveway first before Washington
[14] Lane, would that be the street that you observed the person
[15] identified as the shooter going south on?
[16] **A.** Yes, that would be the street.
[17] **Q.** Okay. And he was going south.
[18] He was going toward Chew Street or in that
[19] direction, correct?
[20] **A.** Correct.
[21] **Q.** Okay. So he was going east through the driveway
[22] parallel with Stenton Avenue and then he made a right turn
[23] going toward Center City, correct, as opposed to going toward
[24] Cheltenham Avenue?
[25] **A.** Correct.

Jaclyne Wilson

[1] certainly appreciate the significance of physical descriptions
[2] and characteristics as you're giving them particularly in a
[3] shooting investigation, correct?
[4] **A.** That is correct, sir.
[5] **Q.** It wasn't some, you know, shot in the dark kind of
[6] identification or ballpark height that you gave. It was to
[7] the best of your vantage point and your experience you
[8] believed the person to be, approximately, 6 feet tall; is that
[9] correct?
[10] **A.** That's correct, sir.
[11] **Q.** And this person had on a black hoody and black pants
[12] according to your statement, correct?
[13] **A.** Yes.
[14] **Q.** Now, I don't see, and maybe I misunderstood you,
[15] because I thought you said something about wearing jeans.
[16] Did you testify that the person was wearing jeans?
[17] **A.** I said black pants, black jeans. Yes, I said black
[18] jeans.
[19] **Q.** Black jeans.
[20] That's what you testified to?
[21] **A.** Yes.
[22] **Q.** Right. That's not what a half hour after the incident
[23] what you said to the police though, right, because it just
[24] says black pants?
[25] **A.** That's correct. I said black pants.

Jaclyne Wilson

[1] **Q.** Okay. Now, I know you've said that you weren't able to
[2] give a facial description of this person but would I be
[3] correct in saying that you were given a description by the
[4] witness who directed your attention to this person? Would
[5] that be fair to say?
[6] **A.** No. Actually the witness said, He's running down
[7] there.
[8] **Q.** Okay. So the description that you gave in your
[9] interview would be based upon your observations, correct?
[10] **A.** Yes, sir.
[11] **Q.** Okay. And that description would be -- referring to
[12] what's been marked as C-3, your statement -- you said that
[13] this person that you saw running, previously identified as the
[14] shooter, was about 6 feet tall; is that correct?
[15] **A.** That is correct.
[16] **Q.** How tall are you, officer?
[17] **A.** I'm 5'10.
[18] **Q.** Okay. So from your vantage point the person you were
[19] chasing before he made that turn was almost your height; is
[20] that fair to say? I assume you thought he was a little bit
[21] taller if you described him as 6 foot?
[22] **A.** I gave that brief description from a distance so I
[23] wasn't sure.
[24] **Q.** I understand.
[25] But being a police officer for nine years you can

Jaclyne Wilson

[1] **Q.** Okay. And you draw a distinction between pants and
[2] jeans, I mean, in your own mind?
[3] **A.** From the distance that I was at, it could have been
[4] jeans, it could have been pants.
[5] **Q.** Okay. So then you don't know whether it was jeans or
[6] pants, correct?
[7] **A.** I mean, you can probably say they were pants or jeans.
[8] It was black belongings. Maybe that's a more accurate
[9] statement.
[10] **Q.** And, officer, I don't mean to be difficult, the only
[11] reason I'm bringing this up is because as I look at your
[12] statement it says that the person was wearing black pants and
[13] then I thought I heard you say today that it was black jeans.
[14] And you don't know whether it was jeans or pants, is
[15] that basically what we're saying, except that they were black?
[16] **A.** Well, going by my written statement of the day that it
[17] actually happened, they were black pants.
[18] **Q.** Pants?
[19] **A.** It happened in February.
[20] **Q.** I appreciate that. But, again, the statement you just
[21] made in terms of distance when you said I wasn't sure. I
[22] couldn't tell if it was black pants or jeans but it was black
[23] belongings or words to the effect, are you just relying on the
[24] fact now that you did see at the time and you did accurately
[25] record what type of pants they were that the person was

Jaclyne Wilson

[1] wearing?
[2] **A.** Yes. At that time, yes, I did.
[3] **Q.** So you don't have a present recollection of it, it's
[4] just you're saying as I look at my statement and if I said
[5] black pants instead of black jeans, that's what I saw,
[6] correct?
[7] **A.** That's correct.
[8] **Q.** Okay. And --
[9] **MR. LORUSSO:** Court's indulgence.
[10] (Pause.)
[11] **BY MR. LORUSSO:**
[12] **Q.** You gave, I assume, this information to the first
[13] police officer who arrived on the scene in response to the
[14] call?
[15] **A.** Yes. That's correct.
[16] **Q.** Officer Edmiston, was it?
[17] **A.** Yes.
[18] **Q.** Okay. And he prepared an incident report with your
[19] information on it?
[20] **A.** I believe so. I never saw his report.
[21] **Q.** Okay. Was there anyone -- strike that.
[22] **MR. LORUSSO:** I have nothing further.
[23] Thank you.
[24] **THE COURT:** Do you have any redirect?
[25] **MS. FORCHETTI:** Just a little,
Jaclyne Wilson

[1] (Witness excused.)
[2] **THE COURT:** Ladies and gentlemen, it's
[3] now 12:30. We'll talk our luncheon recess. We'll
[4] be in recess for an hour.
[5] Everyone in the courtroom remain in place
[6] until the jurors have let the floor.
[7] (Jury exits the courtroom at 12:32 p.m.)
[8] (Luncheon recess.)
[9] **THE COURT:** All right. We're back on the
[10] record. Mr. Simmons is here with his attorney,
[11] Mr. Lorusso. The Commonwealth by Ms. Forchetti.
[12] Are we ready to proceed, ma'am?
[13] **MS. FORCHETTI:** We are, Your Honor.
[14] **MR. LORUSSO:** Yes, Your Honor.
[15] **THE COURT:** Who will be your next
[16] witness?
[17] **MS. FORCHETTI:** My next witness will be
[18] Gerald Wright.
[19] **THE COURT:** Is he in custody?
[20] **MS. FORCHETTI:** No, he's not.
[21] **THE COURT:** Okay.
[22] (Jury enters the courtroom at 1:51 p.m.)
[23] **THE COURT:** Good afternoon, ladies and
[24] gentlemen.
[25] Counsel, you may call your next witness.
Jaclyne Wilson

[1] Your Honor.
[2] ---
[3] REDIRECT EXAMINATION
[4] ---
[5] **BY MS. FORCHETTI:**
[6] **Q.** Officer, how far would you say it is from here to the
[7] elevators?
[8] **A.** Maybe 20, 30 feet. He had a good lead on me. Probably
[9] about 20 feet.
[10] **Q.** So you're saying you got as close as 20 feet to this
[11] person?
[12] **A.** Correct.
[13] **Q.** Okay. And the best description you were able to give
[14] police is a black male, all in black?
[15] **A.** That is correct.
[16] **Q.** As what it says in your statement?
[17] **A.** Yes, ma'am.
[18] **Q.** Okay. And you estimated his height to be,
[19] approximately, 6 feet tall?
[20] **A.** Yes.
[21] **Q.** Okay. Thank you.
[22] **MS. FORCHETTI:** I have nothing further.
[23] **THE COURT:** Any recross?
[24] **MR. LORUSSO:** No, Your Honor.
[25] **THE COURT:** You may step down.
Jaclyne Wilson

[1] **MS. FORCHETTI:** Thank you.
[2] Your Honor, at this time the Commonwealth
[3] calls Gerald Wright.
[4] ...GERALD WRIGHT, after having been first
[5] duly sworn, was examined and testified as follows:
[6] ---
[7] **COURT CRIER:** State your name for the
[8] record and spell your last name.
[9] **THE WITNESS:** Gerald Wright, W-R-I-G-H-T.
[10] **THE COURT:** You may proceed.
[11] ---
[12] DIRECT EXAMINATION
[13] ---
[14] **BY MS. FORCHETTI:**
[15] **Q.** Good afternoon, Mr. Wright.
[16] **A.** Good afternoon.
[17] **Q.** Mr. Wright, back in February of this year, 2011, how
[18] were you employed?
[19] **A.** I worked at a sneaker store.
[20] **Q.** Where is that sneaker store located?
[21] **A.** Stenton and Johnson.
[22] **Q.** And how long had you worked there?
[23] **A.** At that particular location, probably about eight, nine
[24] years.
[25] **Q.** And do you currently work there?
Jaclyne Wilson

[1] A. No.
[2] Q. Where do you currently work? You don't have to tell us
[3] the location.
[4] A. It's a cleaning company. It's not there. They
[5] actually went out of business.
[6] Q. The sneaker store did?
[7] A. Yes.
[8] Q. Okay. And when did that happen?
[9] A. The end of February.
[10] Q. Okay. And were you the only employee at that sneaker
[11] store?
[12] A. Yes.
[13] Q. Did you also work with a woman named Michele at the
[14] sneaker store?
[15] A. Yes.
[16] Q. Okay. So there were other employees at the store?
[17] A. Well, she's my boss. She's the boss's, you know, the
[18] boss's wife. So she's the boss. It's just me and her in
[19] there.
[20] Q. Okay. Do you remember the day of February 4th of this
[21] year, 2011?
[22] A. Pretty much.
[23] Q. Were you working at the sneaker store on that day?
[24] A. Yes.
[25] Q. And about what time did you get to work that day?

Jaclyne Wilson

[1] A. He came in, he purchased a cell phone, he purchased a
[2] shirt. That was it pretty much.
[3] Q. And while you were there inside the store, did you
[4] notice anyone have any contact with that person?
[5] A. Well, I was waiting on customers at the back of the
[6] store. A customer came in. Like I said, I really couldn't
[7] view the customer because we have what you call clothes racks
[8] all the way through the store. The store is maybe -- it's
[9] pretty long. I was at the back of the store. A customer came
[10] in, went right to the counter, purchased a shirt, left right
[11] out. That was the extent of that. I really didn't get a look
[12] at the customer because I was taking care of another customer.
[13] Q. Okay. Did you notice what that person was wearing?
[14] A. Black. That's all I can tell you is it was black. He
[15] had a black jacket on. I don't know if it was a black jacket
[16] or a black hoody.
[17] Q. Did you notice how tall he was?
[18] A. Everybody to me is short, being honest. I'm 6'9. I
[19] got to be honest with you. So I really can't pinpoint a
[20] height, you know what I mean? I just know he wasn't my
[21] height, so he was short, you know? I can't pinpoint height.
[22] Everybody is short to me.
[23] Q. Could you tell how tall he was in relation to the
[24] clothing racks that were there?
[25] A. Being honest, the settings on the clothing racks are,

Jaclyne Wilson

[1] A. I get there everyday about 9:30.
[2] Q. And what time does the store open?
[3] A. Probably ten o'clock.
[4] Q. And do you remember having any contact with a person
[5] about a cell phone?
[6] A. Yes. Numerous people, to be honest. We sell cell
[7] phones.
[8] Q. Okay. Do you remember coming into contact with a
[9] person who was later shot that day?
[10] A. Yeah.
[11] Q. Okay.
[12] A. He came in to purchase a cell phone.
[13] Q. All right. Have you ever seen him before?
[14] A. Yes.
[15] Q. When was the last time you had seen him prior to the
[16] day of the shooting?
[17] A. It had to be a couple days earlier. He came in and
[18] inquired about a cell phone and he came back and he purchased
[19] it.
[20] Q. And had you ever seen that person around the
[21] neighborhood before?
[22] A. I mean, he frequents the neighborhood. I mean, I'm
[23] around there. I see everybody around there but, you know.
[24] Q. Okay. And what happened when the person came back in
[25] to buy his cell phone?

Jaclyne Wilson

[1] you know, I would have to pretty much stand to show you.
[2] Q. You may do so, Mr. Wright.
[3] A. Well, the clothing racks are about yay high because
[4] they hold jeans and stuff like that. So anybody comes in they
[5] around, that's average height to me. So anybody that comes
[6] in, I really couldn't say short, tall. That's all average
[7] height to me.
[8] Q. Okay.
[9] **MR. LORUSSO:** Can we, for the record --
[10] **THE COURT:** Can the two of you can agree
[11] on an estimate.
[12] **BY MS. FORCHETTI:**
[13] Q. Can you do that again for us, Mr. Wright?
[14] A. Well, like I said, the clothing racks are about here
[15] and if they have signs on top of them too so it's, you know,
[16] like a clothing rack is here. There's a little pole and then
[17] we have what you call sales signs sticking on each one of the
[18] racks so it would be even higher with the cloth signs.
[19] **THE COURT:** All right. Let's try to get
[20] some dimensions.
[21] Stand up again, sir. You say the rack is
[22] about here, put your hand up.
[23] **THE WITNESS:** About right.
[24] **THE COURT:** Can the two of you agree?
[25] **MR. LORUSSO:** Top of the clothing rack,
Jaclyne Wilson

[1] if you're 6'9, I would say probably 5'9, 5'8.
[2] **THE COURT:** You agree with that?
[3] **MS. FORCHETTI:** Well --
[4] **THE WITNESS:** Like I said there's also --
[5] **THE COURT:** Just a second.
[6] Can we agree on where his hand is now?
[7] **MS. FORCHETTI:** I need to move a little
[8] closer because I'm bad at estimating height.
[9] **THE COURT:** It appears to be about 5'10
[10] to this Court. The jurors can make their own
[11] determination as to the height.
[12] What's your next statement that there's
[13] something above that?
[14] **THE WITNESS:** Yes. They have --
[15] **THE COURT:** And put your hand out to show
[16] us.
[17] **THE WITNESS:** The sales signs pretty
[18] bring it to about here.
[19] **THE COURT:** This Court's estimate is
[20] about 6'7 or thereabouts. Now, the two of you may
[21] state your own estimates for the record.
[22] **MS. FORCHETTI:** No, that sounds pretty
[23] accurate.
[24] **MR. LORUSSO:** I agree.
[25] **THE COURT:** Okay. Please continue.
Jaclyne Wilson

[1] **Q.** Okay. Do you remember in that statement saying that
[2] you observed that shorter guy ask the shooting victim, Can I
[3] Holler at you?
[4] **A.** Well, what I said was in a sense of maybe he was asking
[5] for a cigarette or something, you know what I mean? When two
[6] people come in contact with each other, you know, a guy might
[7] say, Let me get a cigarette. Let me holler at you. But to my
[8] knowledge, somebody came in, you know, Let me holler at you,
[9] and they walked out. They walked out the store and once they
[10] walked out the store --
[11] **Q.** So you did see that interaction?
[12] **A.** No. It's not like I saw the interaction. Like I said,
[13] when the customer paid for his shirt as he was walking out the
[14] store, he said, Let me holler at you.
[15] **Q.** You heard it?
[16] **A.** He wasn't talking to me. I assume he said, Let me
[17] holler at you, you know what I mean? Because when he turned
[18] to make the remark, the boy that was there paying for his
[19] phone left out with him
[20] **Q.** Okay. What happened after that?
[21] **A.** Well, after that I really couldn't tell you. I got a
[22] phone call from my wife. As I walked to the front of the
[23] store, we were activating a person's phone and when I looked
[24] out the store, the lady -- the customer I was waiting on, she
[25] was going back to her job. I looked out the store. I saw a
Jaclyne Wilson

[1] **BY MS. FORCHETTI:**
[2] **Q.** Mr. Wright, how tall was that person in relation to the
[3] clothing racks?
[4] **A.** Really, I see -- just glancing, I really couldn't see
[5] him over the clothing racks but, you know, you can see the
[6] person come in. Like I said, it's hard for me to gage a
[7] height.
[8] **Q.** Okay. Would you say he was taller or shorter than the
[9] clothing racks?
[10] **A.** Well, he wasn't taller. If he was taller than the
[11] clothing racks, he would be my height, you know what I mean?
[12] The clothing racks are pretty tall. It's really -- I'm being
[13] honest, it's really hard for me to gage height, you know what
[14] I mean, by me being so tall and seeing people that's average
[15] everyday.
[16] **Q.** And did you observe that person have any interaction
[17] with the person who was there buying a cell phone?
[18] **A.** No. I didn't observe any actions. Like I said, I was
[19] in the back of the store. When the person came in, I turned
[20] around, you know, just to see if he needed any help but before
[21] I got a chance to help the person, he grabbed a shirt, went to
[22] the front counter, paid for it and left out.
[23] **Q.** Okay. Do you remember giving a statement to the
[24] police?
[25] **A.** Yeah, I gave a statement.
Jaclyne Wilson

[1] black guy running down the street with a gun out. I backed up
[2] into the store. I had no knowledge of what was going on. I
[3] backed up into the store.
[4] The very next thing I did I waited a couple minute
[5] until I seen all these cops. When I walked outside, I saw a
[6] guy laying on the ground. My first reaction was, you know,
[7] when I saw his face I thought he maybe stole something out our
[8] store.
[9] **Q.** Who was that guy laying on the ground?
[10] **A.** I don't really know the guy's name. It's the person
[11] that actually paid for the phone. He had purchased a phone
[12] and he had left his phone in there to be activated. So when I
[13] saw him on the ground, I saw the cops around him. I though
[14] they were locking him up for doing something. I had no idea
[15] he had been shot because I didn't hear no gunshot or anything,
[16] you know what I mean? I had no idea that nothing went on
[17] outside. All I know is when I see the cop run down the
[18] street, I backed up into the store.
[19] **Q.** Okay. Do you play music inside of your store?
[20] **A.** Yes, we do. We have a radio inside the store for
[21] customers.
[22] **Q.** Were you playing music that day?
[23] **A.** Yes. The radio is always on.
[24] **Q.** Okay. After you saw the shooting victim on the ground,
[25] you duck back inside the store, is that what you did?
Jaclyne Wilson

[1] **A.** No. Actually when I saw him on the ground, after I saw
[2] the cops, I came back in the store. When I seen the cop run
[3] down the street, you know what I mean, that's when I ducked
[4] back in the store. Once all the police came, that's when I
[5] actually walked out the store, you know what I mean, and felt
[6] a little safer. I didn't know what was going on. You see a
[7] guy running down the street with a gun out, you don't just run
[8] out there into the action. You kind of back up from it. So
[9] that's what I did. I had no idea what was going on.
[10] **Q.** So, Mr. Wright, after you see the police arrive on the
[11] scene, you come back outside of the store, what do you do at
[12] the point?
[13] **A.** Only thing I do is just ask the officer -- you know, I
[14] didn't even ask the officer. When I saw the victim on the
[15] ground, I just, you know, I realized he was shot when I saw
[16] the blood. Once I saw the blood, my first reaction was I
[17] didn't know anybody had got shot. I actually ran back in the
[18] store and asked my boss did he steal anything because I though
[19] maybe he stole a shirt and ran out the store, you know? Once
[20] the cops had him on the ground and what not I just came out
[21] and I told the cop he has a cell phone in his jacket, you
[22] know? I gave him his cell phone in the jacket, his property
[23] that he had paid for.
[24] **Q.** Did the police then come and collect the victim's
[25] things from inside your store?
Jaclyne Wilson

[1] doorway?
[2] **A.** You're asking me where he was?
[3] **Q.** Yes. When you saw him out on the street?
[4] **A.** When I saw him, on the side, around the side in the
[5] back near to, what do you want to call it back there? Where
[6] the dumpster is at.
[7] **Q.** So, Mr. Wright, how far away from your doorway would
[8] you say you saw the shooting victim when you peeked outside?
[9] **A.** I don't know how you gage the back of the store. Maybe
[10] a hundred feet. I don't know. From the front of the store to
[11] the back of the store. I mean, I really ain't -- I would
[12] say -- I don't know. Maybe 50, 70, 80 feet. I guess if
[13] that's how you measure the store because it was actually
[14] in the back of the store.
[15] **Q.** Okay. Now, Mr. Wright, if you could take a look at the
[16] next photograph that's been marked as Commonwealth Exhibit 5.
[17] **A.** That would be this one?
[18] **Q.** Yes.
[19] Can you tell us what is shown in that photograph
[20] that has been marked as C-5?
[21] **A.** A cell phone and a shirt.
[22] **Q.** Whose cell phone and shirt was that?
[23] **A.** That's the cell phone that the guy purchased.
[24] **Q.** Which guy?
[25] **A.** Well, I mean, like I said, I don't really know these
Jaclyne Wilson

[1] **A.** Yes.
[2] **Q.** Okay.
[3] **MS. FORCHETTI:** Your Honor, I have four
[4] photographs that I would ask to mark at this time as
[5] C-4, C-5, C-6 and C-7.
[6] **THE COURT:** They may be marked.
[7] **MS. FORCHETTI:** Thank you.
[8] (Photographs marked Commonwealth Exhibits
[9] C-4, C-5, C-6 and C-7 for identification.)
[10] **COURT CRIER:** So marked C-4, C-5, C-6 and
[11] C-7.
[12] **BY MS. FORCHETTI:**
[13] **Q.** Mr. Wright, you have four photographs in front of you
[14] that have been marked C-4, C-5, C-6 and C-7.
[15] If you could do me a favor and start with the first
[16] photograph that's been marked Commonwealth Exhibit 4. Do you
[17] recognize what is in that photograph?
[18] **A.** Yes. It's a picture of the sneaker store.
[19] **Q.** Is that the same sneaker store where you were on
[20] February 4th of this year, 2011?
[21] **A.** Yes.
[22] **Q.** And the doorway that's depicted on the store, upon
[23] which street does that doorway face?
[24] **A.** Would be Johnson, I guess. Coming out towards Johnson.
[25] **Q.** And where was the shooting victim in relation to that
Jaclyne Wilson

[1] guys' names. The guy that was on the ground outside. That's
[2] the cell phone that he purchased.
[3] **Q.** Okay. The man who was shot?
[4] **A.** Yes.
[5] **Q.** Okay. Now, prior to the day -- a few days before this
[6] when that guy came in asking about buying a cell phone, had
[7] you ever seen him around the neighborhood before that?
[8] **A.** Yeah. I mean, he frequents the neighborhood.
[9] **Q.** Okay. Did you have a conversation with him that first
[10] time that he came in?
[11] **A.** Strictly about purchasing a cell phone. He came in and
[12] he inquired about the cell phone. He said he would come back.
[13] He came back a couple days later and purchased it.
[14] **Q.** Okay. Now, if you could take a look at the next
[15] photograph that's been marked Commonwealth Exhibit 6.
[16] **A.** Okay.
[17] **Q.** What's shown in that photograph?
[18] **A.** That's the guy's jacket that he took off in the store.
[19] **Q.** Okay. The victim's jacket?
[20] **A.** Yeah.
[21] **Q.** Okay. That's where he left it when he left the store?
[22] **A.** Yes.
[23] **Q.** Okay. Now, if you could take a look at the final
[24] photograph that's been marked as Commonwealth Exhibit 7.
[25] **A.** Okay.
Jaclyne Wilson

[1] **Q.** Can you tell us what's shown in that photograph?
[2] **A.** Just our display racks. That's basically our display.
[3] It's nothing really standing out about this. It's just
[4] clothes and sneakers.
[5] **Q.** Okay. That shows the layout of the store?
[6] **A.** Yes.
[7] **Q.** Is that right?
[8] **A.** Yes.
[9] **Q.** Okay. Does that photograph show pretty accurately how
[10] tall the clothing racks were on that day?
[11] **A.** Pretty much. I mean, with the signs on top, like I
[12] said, some of them push it up to pretty tall with the sign on
[13] top, but, yeah, that's pretty much it.
[14] **MS. FORCHETTI:** Your Honor, I would ask
[15] to mark Mr. Wright's 75-483 as Commonwealth Exhibit
[16] 8.
[17] **THE COURT:** It may be marked.
[18] (Statement (Wright) marked Exhibit C-8
[19] for identification.)
[20] **COURT CRIER:** Your Honor, so marked C-8.
[21] **BY MS. FORCHETTI:**
[22] **Q.** Mr. Wright, you have a document in front of you that's
[23] been marked as Commonwealth Exhibit 8.
[24] Do you recognize that document?
[25] **A.** Yes.

Jaclyne Wilson

[1] **A.** Yeah. He asked me if everything was correct that I
[2] spoke on, yes.
[3] **Q.** Okay. And was everything correct that you had spoke
[4] on?
[5] **A.** Yeah. Everything is pretty much correct. Everything
[6] is what I said it was.
[7] **Q.** Okay. Then did you sign it at the bottom of that
[8] statement?
[9] **A.** Yes, I did.
[10] **Q.** And so in your statement, Mr. Wright, the detective
[11] asked you to tell him what you know about the shooting that
[12] happened outside your store.
[13] Do you see that question there?
[14] **A.** What question would be -- how many times have you seen
[15] the guy who was shot before?
[16] **Q.** No. The very first question, Mr. Wright, under all
[17] your biographical information at the top of the page. It has
[18] your name. It has your address. It has where you work,
[19] how old you are.
[20] **A.** Okay.
[21] **Q.** And then it says, Mr. Wright, my name is Detective
[22] James Sloan. Please tell me what you know about the shooting
[23] that occurred outside your store.
[24] Do you see that?
[25] **A.** Yes.

Jaclyne Wilson

[1] **Q.** What is that?
[2] **A.** This is the statement that they took.
[3] **Q.** Okay. When did you give that statement to Detective
[4] Sloan?
[5] **A.** Couple hours, maybe about an hour or so after the
[6] incident happened.
[7] **Q.** So on the same day of the shooting?
[8] **A.** Yes.
[9] **Q.** Okay. And did anyone have to force you to talk to the
[10] detective in this case?
[11] **A.** No, no one forced me.
[12] **Q.** And so you talked to the detective of your own free
[13] will; is that right?
[14] **A.** I'm not going to say own free will, but did I have a
[15] choice? That's what you want to ask me, Did I have a choice,
[16] you know what I mean?
[17] **Q.** So you weren't too exited about getting involved in
[18] this investigation?
[19] **A.** No. Honestly, I don't know why I'm involved in this,
[20] you know what I mean?
[21] **Q.** After you gave your statement to the detective, did he
[22] gave you a chance to look it over?
[23] **A.** Yes, I looked it over.
[24] **Q.** Okay. And after you looked it over, were you given a
[25] chance to make any corrections?

Jaclyne Wilson

[1] **Q.** And then there's a long narrative paragraph; is that
[2] right?
[3] **A.** Yes.
[4] **Q.** And you tell the detective the story of what happened
[5] that day; is that right?
[6] **A.** I tell him what happened inside the store.
[7] **Q.** Right.
[8] **A.** You understand? That's as far, that's the extent that
[9] I can tell you. I had no knowledge of what was going on
[10] outside of the store.
[11] **Q.** Okay. And you see where you said, I was in the store
[12] helping a woman with a sneaker purchase?
[13] **A.** Right.
[14] **Q.** A guy who comes in the store once in a while came in.
[15] **A.** Right.
[16] **Q.** This guy came in a few days ago and was asking about a
[17] prepaid phone and said he would be back.
[18] **A.** Right.
[19] **Q.** He came in and went to a shirt display.
[20] **A.** Okay.
[21] **Q.** he took his jacket off and tried on a shirt. I told
[22] Michele, my boss, to ring him up. The guy paid for the shirt
[23] and Michele was working on activating the prepaid phone for
[24] him. About five minutes after he came in, a second shorter
[25] guy came walking in.

Jaclyne Wilson

[1] Do you see that?
[2] A. Yes.
[3] Q. Okay. That's what you told the detective?
[4] A. Yes.
[5] Q. The guy walked over to the shirt display and grabbed
[6] the same exact shirt as the first but a different color. I
[7] didn't pay him much mind because I was helping the woman and
[8] this guy came right in and grabbed the shirt and went to the
[9] counter.
[10] Do you see that?
[11] A. Yes.
[12] Q. I figure he didn't need any help, that he had what he
[13] wanted. I told Michele to take care of the guy. Michele
[14] stopped working on activating the phone and walked over and
[15] rang the guy up for the shirt then went back to working on the
[16] phone.
[17] Is that what you told the detectives?
[18] A. Yes.
[19] Q. I heard the shorter ask, Can I holler at you, to the
[20] first guy.
[21] Is that what you told Detective Sloan?
[22] A. Yes.
[23] Q. I thought he was going to ask for a cigarette or
[24] something. They both went outside.
[25] A. And that's what happened.
Jaclyne Wilson

[1] last time was a couple days of ago when he told me he had just
[2] gotten out of jail and was asking about a phone. He knows my
[3] nickname, Bones.
[4] A. Yes.
[5] Q. But I don't know his name.
[6] A. No.
[7] Q. Okay. You had seen the man who had been shot several
[8] times before this time?
[9] A. I said that earlier when you asked me.
[10] Q. Okay. And then Detective Sloan asked you, Have you
[11] ever seen the guy who came in after him before?
[12] A. Right.
[13] Q. And you said, No, I didn't really look at him. I
[14] glanced at him. I know he was kind of short. He was shorter
[15] than the guy who was shot. He was like my complexion, brown
[16] skinned. He was darker than the guy who got shot.
[17] A. Yes.
[18] Q. All I saw was that the guy had on a black coat. The
[19] guy wasn't much taller than the clothes racks. Like I said,
[20] the guy came right in and went straight to the rack, grabbed
[21] the shirt then to the counter so I really didn't look at him.
[22] Did you talk to any of the people on the street
[23] afterwards after the shooting?
[24] A. No. I have no reason to.
[25] Q. Okay. You didn't want to get involved?
Jaclyne Wilson

[1] Q. The first guy, victim, left his jacket and his shirt
[2] in the store and walked out with the guy.
[3] A. Right.
[4] Q. Okay. The lady was leaving out, the lady you were
[5] helping with the sneakers?
[6] A. Yes.
[7] Q. And my wife called me. I was talking to her and I
[8] looked out the door and saw this guy who was stuck in the
[9] driveway.
[10] A. Yeah.
[11] Q. There was a black guy running down the driveway. I saw
[12] him stop by the car. He pulled out a gun. I saw his pants
[13] and realized he was a cop.
[14] Is that what happened?
[15] A. Yes.
[16] Q. He then ran back towards Stenton then towards
[17] Washington Lane. When I saw the cop disappear, I backed up
[18] into the store.
[19] A. Right.
[20] Q. Okay. Then the detective asked you, How many times
[21] have you seen the guy who was shot before?
[22] A. Okay.
[23] Q. Do you remember him asking you that?
[24] A. Yes, he did.
[25] Q. And you said, I would say about five times or so. The
Jaclyne Wilson

[1] A. No. I mean, I'm up there to work. I take care of my
[2] family. It's a 9:00 to 5:00 for me. I see people, you know?
[3] I been working up there for ten years. So it's not a face I
[4] really wouldn't notice up here. I mean, you have a hundred
[5] guys up there that know Bones but Bones don't know any of
[6] these guys unless I just see their face and speak. That's how
[7] it goes.
[8] Q. Okay. So you weren't really friendly with the shooting
[9] victim; is that right?
[10] A. No, I'm not -- you know, like I said, he's a guy that
[11] frequents the store. I know he's from -- I don't know if he's
[12] from the neighborhood but I've seen him before. I saw him a
[13] couple days. He said he was coming in to get a phone. I told
[14] him I'll hook him up, a nice price, and he came back and I
[15] hooked him up. That's what I do.
[16] Q. Right. So you told the police to the best of your
[17] knowledge about the guy who had come in and said, Can I holler
[18] at you?
[19] A. Yes. To the best of my knowledge, it was just me
[20] hearing it. I assume that's what he was saying because they
[21] walked out together. A lot of people come in the store, you
[22] got cigarettes, you got this, you know what I mean? There's
[23] no smoking in the store, you know what I mean, so they'll step
[24] outside. But, you know, to my knowledge, it was real quick,
[25] you know what I mean?
Jaclyne Wilson

[1] **Q.** Okay. So the guy who got shot, he was light-skinned?
[2] **A.** Yes. He's light-skinned.
[3] **Q.** Okay. And how much time passed between when you saw
[4] them leave the store and you looked outside and saw the guy
[5] who got shot on the ground?
[6] **A.** Being honest, just guessing, it couldn't have been no
[7] more than five to ten minutes because like a phone takes about
[8] 20 minutes to activate. The purpose of him taking his jacket
[9] off, was he had a few minutes to wait around so he was trying
[10] some stuff on the store. He wind up purchasing the shirt
[11] while he was waiting. So with him walking out the store, I
[12] figure it a was a quick cigarette break, you know what I mean,
[13] until his phone would be ready. It would had been about five,
[14] ten minutes.
[15] **Q.** Okay. Now, Mr. Wright, was that the extent of your
[16] role --
[17] **A.** That's it.
[18] **Q.** -- in witnessing whatever happened that day?
[19] **A.** I can't say I witnessed whatever happened outside the
[20] store. I can on tell you my role inside the store. I have no
[21] knowledge of what went on outside.
[22] **Q.** Okay. Thank you.
[23] **MS. FORCHETTI:** I don't have anymore
[24] questions.
[25] **THE COURT:** Mr. Lorusso, you may
Jaclyne Wilson

[1] **Q.** To your shoulders?
[2] **A.** Maybe to my shoulder. A little higher.
[3] **Q.** Higher than your shoulders.
[4] And you're 6'9?
[5] **A.** Yes.
[6] **Q.** Okay. And so when you were referring to your statement
[7] to the police about the person being -- let me see. What did
[8] you say?
[9] **MR. LORUSSO:** Court, indulge me.
[10] (Pause.)
[11] **BY MR. LORUSSO:**
[12] **Q.** Wasn't much taller than the clothes racks, were you
[13] referring to the racks with the signs on them, if you know, or
[14] just the --
[15] **A.** Being honest, when I said that, I was in general
[16] stating the actual height. Like I said, if a person comes in
[17] and they're my height, I can actually see them.
[18] **Q.** Okay.
[19] **A.** But to me anybody that comes in there, I'm looking at
[20] racks before I see them because the racks are about yay high
[21] and they're average height to me. So when I say shorter than
[22] the racks, meaning it can be anywhere -- you know, I really
[23] can't gage the height because it's shorter than the racks.
[24] **Q.** Less than 6'4 or 6'5; is that what you're saying?
[25] **A.** Yes, somewhere around there.
Jaclyne Wilson

[1] cross-examine.
[2] **MR. LORUSSO:** Thank you, Your Honor.
[3] ---
[4] CROSS - EXAMINATION
[5] ---
[6] **BY MR. LORUSSO:**
[7] **Q.** Good afternoon.
[8] **A.** Good afternoon.
[9] **Q.** Mr. Wright, I'm going to ask you to take a look at the
[10] photograph that's been marked C-6 for identification.
[11] **A.** Okay.
[12] **Q.** It depicts clothing racks that were inside the store;
[13] is that right?
[14] **A.** Yes.
[15] **Q.** It would appear to me the clothing rack on the left
[16] side of the photograph is significantly taller than the one of
[17] the right side; is that right?
[18] **A.** Yes.
[19] **Q.** Referring to that photograph on the left side, the one
[20] that it seems to be taller, can you estimate how tall that
[21] would be in relation to you?
[22] **A.** To me, well, with these hoody racks, like I said these
[23] right here, you look at the top of it that will push it -- I
[24] don't know -- a lot of those come up to about right here
[25] because I find myself twisting them on.
Jaclyne Wilson

[1] **Q.** Now, let me ask you another question because you said,
[2] I believe, that the person was wearing a black coat or black
[3] hoody?
[4] **A.** Yeah. I knew he had on black. I'm not sure if it was
[5] a hoody or jacket.
[6] **Q.** I'm going to direct your attention to the statement
[7] that you gave. Looks like you were taken in at 3:30 that same
[8] day.
[9] If you'd be so kind to look at the second question
[10] down there where you're asked, Have you seen the guy before
[11] who came in after him? Do you see that?
[12] **A.** Yes.
[13] **Q.** Do you see where the second line of your answer it
[14] says, All I can say was that the guy had on a black coat?
[15] **A.** Yes.
[16] **Q.** And you, I assume, draw a distinction between a black
[17] coat versus a black hoody; is that correct?
[18] **A.** Well, being honest, when I said black coat, it was just
[19] black coat. I didn't know if it was a hoody or black jacket.
[20] **Q.** Okay. So you're not sure what it was, you just
[21] referred to it as a black coat?
[22] **A.** Yeah. He had on black.
[23] **Q.** I follow you.
[24] Now, you also described that day when you were at
[25] the detective division the complexion of this second person
Jaclyne Wilson

[1] who came into the store; is that correct?
[2] **A.** Yes.
[3] **Q.** And you described him as being like your complexion; is
[4] that correct?
[5] **A.** He's a dark-skinned. It was a dark-skinned person.
[6] **Q.** Okay. Looking at my client, how would you describe his
[7] complexion?
[8] **MS. FORCHETTI:** Objection, Your Honor.
[9] **THE COURT:** Overruled.
[10] **BY MR. LORUSSO:**
[11] **Q.** If you were to give a description of my client's
[12] complexion, how would you describe him?
[13] **A.** It wouldn't be considered dark-skinned.
[14] **Q.** Would it been considered like your complexion?
[15] **A.** No.
[16] **Q.** How would you describe his complexion?
[17] **A.** I probably medium, light-skinned.
[18] **Q.** Okay. Let me ask you this: After you were transported
[19] to Broad and Champlost, the detective division, and you were
[20] interviewed and gave that statement that has been marked as
[21] C-8, were you subsequently transported back to the store?
[22] **A.** Yes, I was.
[23] **Q.** And do you know about what time you got back to the
[24] store?
[25] **A.** Man, I don't know. Maybe an hour before closing. We
Jaclyne Wilson

[1] car.
[2] **Q.** Okay. So did you see somebody situated in that car
[3] when the detective came and told you that?
[4] **A.** Yes. The detective, they had somebody in custody.
[5] **Q.** Okay. And how long after you got back -- and I
[6] understand that you don't have a, you know, you weren't really
[7] cognizant of specific times, but how long after you got back
[8] from Broad and Champlost did this incident occur where the
[9] detectives said we have somebody we want you to identify?
[10] **A.** It wasn't too long after I got back. Maybe, I don't
[11] know. I can't gage but it wasn't that long, you now? Because
[12] when we came back to the store, we stayed about an hour later
[13] and then we left for the evening.
[14] **Q.** Okay. Did you look out and see this person that was
[15] in the vehicle?
[16] **A.** No. They actually tried to bring him into the store.
[17] **Q.** And that's when you said basically don't waste your
[18] time because I can't identify --
[19] **A.** I told them, don't waste your time because I didn't
[20] see, you know, I told them from the gate, there's no need of
[21] bringing nobody in this store and implementing that because I
[22] didn't see who it was. I couldn't tell you one short guy from
[23] another short guy if you lined them up in front of me.
[24] **Q.** Okay. Well, where are you making a reference of a
[25] short guy? Where does that come from?
Jaclyne Wilson

[1] normally close about 6:00. So maybe about 5:00. Maybe a
[2] little before 5:00. I'm not really sure.
[3] **Q.** Okay. When you got back to the store after being
[4] interviewed --
[5] **A.** Okay.
[6] **Q.** -- did police ever transport anybody to the store for
[7] you to view?
[8] **A.** Yeah. They tried to.
[9] **Q.** And how many times did that occur?
[10] **A.** It happened once.
[11] **Q.** One time. Okay.
[12] And tell us the circumstances surrounding that?
[13] **A.** Well, basically, once they dropped me back off at the
[14] store, I was talking to -- the detective came in. I seen the
[15] car pull up. The detective came in and said, We have somebody
[16] we want you to identify. I told the detective, No need to
[17] bringing anybody in here because I couldn't identify anybody.
[18] I mean, you can bring in ten short guys. I couldn't tell you
[19] one from the other.
[20] **Q.** So the detective said, We have somebody we want you to
[21] identify?
[22] **A.** Right.
[23] **Q.** And was there a police car that was at the location
[24] when the detective said that?
[25] **A.** No. It was what you call a Ford Taurus, a detective
Jaclyne Wilson

[1] **A.** Basically just from my height. When I say "short",
[2] anybody that comes in my presence is pretty much short unless
[3] their average height is 6'3, 6'4. That's the type of people I
[4] hang around, you know, basketball players. When I see
[5] somebody that's not in that 6'3, 6'4 range, to me that's
[6] average height for everybody. So when I say short, I mean
[7] shorter than me and like I said I'm 6'9.
[8] **Q.** Other than the black coat that you identified which now
[9] you're saying you don't know whether it was black hoody or
[10] black coat or jacket, whatever, do you recall whether that
[11] person who came in the second time was wearing a hat?
[12] **A.** I really don't know. I really can't say he was wearing
[13] a hat. I know he had a black jacket or hoody but I don't know
[14] if he had a hat on or not.
[15] **Q.** Okay. Thank you, Mr. Wright.
[16] **MR. LORUSSO:** I have nothing further.
[17] **THE COURT:** Do you have any redirect?
[18] **MR. LORUSSO:** I'm sorry. I have one
[19] question, if I may?
[20] **THE COURT:** Go ahead.
[21] **MR. LORUSSO:** Thank you.
[22] **BY MR. LORUSSO:**
[23] **Q.** The detective who came to your store when he wanted you
[24] to make an identification, do you know who that detective was?
[25] **A.** No. It was maybe three or four of them in the store,
Jaclyne Wilson

[1] you know what I mean? So I think one -- I really couldn't
[2] place him. He told me he wanted me to identify somebody and
[3] when he pulled up and started to bring somebody in, I cut him
[4] off from the gate, don't bring somebody in the store because I
[5] have -- there's no reason for bringing somebody in and me
[6] saying yay or nay when I didn't see who the culprit was. So I
[7] told him from the gate don't bring nobody into the store and
[8] he took the person and put him back in the car and left.
[9] **Q.** Can you describe who that person was, who that
[10] detective was? What he looked like?
[11] **A.** I really can't. It was maybe four or five of them at
[12] the store at the time. I don't know which one specifically
[13] asked me to, you know, identify the person but --
[14] **Q.** Okay. Thank you.
[15] **MR. LORUSSO:** I have nothing further.
[16] **THE COURT:** Do you have any redirect?
[17] **MS. FORCHETTI:** A little bit.
[18] ---
[19] REDIRECT EXAMINATION
[20] ---
[21] **BY MS. FORCHETTI:**
[22] **Q.** Mr. Wright, you told the detectives that the second
[23] person who came in to speak to the victim was darker than the
[24] victim; is that right?
[25] **A.** Yeah, considering the victim is real light-skinned.
Jaclyne Wilson

[1] if I definitely didn't see what was going on. I didn't see
[2] what went down outside so to me it was why would you bring him
[3] to my store? If that incident happened in the store, yeah, I
[4] guess I could identify somebody. But everything took place
[5] outside the store. So why would you bring a person back into
[6] my store and ask me to identify somebody that I never saw from
[7] the get go. They had witnesses outside the store. If you
[8] have witnesses outside the store, you handle it outside the
[9] store. I can only tell you what I saw inside the store. Once
[10] the people left the store, I have no knowledge of what went on
[11] outside. Cigarette smoke. They could have been smoking an L
[12] for all I know. It happened outside the store.
[13] **Q.** Okay. So because the shooting happened outside of the
[14] store, outside of your presence, you didn't want to identify
[15] anyone who could have been in your store before it happened?
[16] **A.** It has nothing to do with identifying. I identified
[17] the person who got shot that was in the store. If I had
[18] recollection and I knew who the person was that came in, I can
[19] identify him, I'm not a guy that's going to say I'm turning my
[20] back but I couldn't identify the second person that came in
[21] the store. It's not a person that I've seen before.
[22] **Q.** Okay.
[23] **A.** Like I said, the guy that got shot, I seen his face
[24] before. He frequents the neighborhood, you know what I mean?
[25] Everybody's face -- I got a lot of faces in my head from the
Jaclyne Wilson

[1] **Q.** And you're fairly dark-skinned, would you say so, sir?
[2] **A.** I'm black, if you want to ask me. I'm what you call
[3] black, chocolate, if you want to say that, but I'm black.
[4] **Q.** So that second person was lighter skinned than you
[5] were?
[6] **A.** He wasn't light-skinned like the guy that got shot, you
[7] know what I mean? He was considered brown-skinned.
[8] Brown-skinned to me is maybe a shade lighter to me, you know
[9] what I mean? But I consider myself a dark-skinned person and
[10] the person that came in, if you ask me to state his
[11] complexion, he was a dark-skinned guy. He wasn't a
[12] light-skinned guy, you know.
[13] **Q.** Okay. You described him to Detective Sloan as
[14] brown-skinned?
[15] **A.** Brown-skinned, yeah. Like I said A shade lighter than
[16] me. I'm considered black or chocolate, if you wish. So A
[17] shade lighter than me.
[18] **Q.** So did -- Mr. Wright, when you returned from being
[19] interviewed --
[20] **A.** Yes.
[21] **Q.** -- you didn't wish to look at anyone for purposes of
[22] identification; is that right?
[23] **A.** Well, it's not that I wish. It's why would I look at
[24] somebody and implicate somebody when I have no knowledge of
[25] what's going. I'm not going to sit there and point out a guy
Jaclyne Wilson

[1] neighborhood. I know everybody in the neighborhood. Whether
[2] they know me or not, I know their faces, you know? Like I
[3] said, the second guy that came in, I barely -- you now, I just
[4] glanced at him because he came in the store and we have a
[5] chime. Once the chime sound, I turn around, I look. The guy
[6] walks right over, grabs a shirt. I'm waiting on a customer.
[7] All I did was, Michele, go ahead and ring him up. He paid for
[8] his shirt and he left out.
[9] **Q.** Okay. Now, Mr. Wright, you had told us earlier that
[10] there might be a lot of people in the neighborhood who know
[11] you but you wouldn't necessarily know them?
[12] **A.** By name, yeah. Like everybody knows Bones. Everybody
[13] in the neighborhood knows Bones at the sneaker store, you know
[14] what I mean? Like I said, I look a lot of people faces and
[15] know them but, you know, I don't put names with faces because
[16] I don't interact with a lot of guys like that, you know what I
[17] mean? It's just a job for me.
[18] **Q.** Okay. Thank you, Mr. Wright.
[19] **MS. FORCHETTI:** I don't have anymore
[20] questions.
[21] **MR. LORUSSO:** I have one redirect.
[22] **THE COURT:** Do you have additional
[23] questions?
[24] **MR. LORUSSO:** I do, Your Honor. Thank
[25] you.
Jaclyne Wilson

[1] **THE COURT:** You may proceed.
[2] ---
[3] RECROSS - EXAMINATION
[4] ---
[5] **BY MR. LORUSSO:**
[6] **Q.** Mr. Wright, at Northwest Detectives Division when you
[7] were taken in right after that, did you tell the detective who
[8] was interviewing you, No, I really didn't look at him. I
[9] glanced at him, referring to the second person that came in
[10] the store?
[11] **A.** Yeah, the complainants.
[12] **Q.** Thank you.
[13] **MR. LORUSSO:** I have nothing further.
[14] **THE COURT:** You may step down.
[15] (Witness excused.)
[16] **THE COURT:** Call your next witness.
[17] **MS. FORCHETTI:** Your Honor, at this time
[18] the Commonwealth calls Detective James Sloan.
[19] **MR. LORUSSO:** Can I see Your Honor
[20] briefly at sidebar?
[21] **THE COURT:** Yes. Come over here.
[22] (Sidebar held off the record.)
[23]
[24]
[25]

Jaclyne Wilson

[1] **A.** Hundreds, unfortunately.
[2] **Q.** Have -- were you one of the detectives responding to a
[3] shooting that had occurred in the 1300 block of Johnson Street
[4] on February 4th of this year, 2011, at about two o'clock
[5] in the afternoon?
[6] **A.** Yes.
[7] **Q.** Were you working with anyone that day?
[8] **A.** My partner, Detective Geliebter.
[9] **Q.** Okay. And how soon after you received information that
[10] there was a shooting at that location did you go to that
[11] location?
[12] **A.** Timewise it was shortly thereafter. I can't give you
[13] an exact time.
[14] **Q.** Okay. When you arrived, detective, what did you see?
[15] **A.** There was police officers already there guarding the
[16] scene. There was a white vehicle that was on Johnson Street,
[17] appeared to be stuck in the snow. There was a piece of
[18] clothing that was either a towel or a shirt and there was some
[19] blood on the highway.
[20] **Q.** Okay. Now, what did you and your partner do when you
[21] arrived at the scene?
[22] **A.** We did a couple things. First is we walked the scene
[23] looking to see if there was any other evidence out there. See
[24] if we would find any ballistics evidence. Walked around
[25] seeing if there was any witnesses. We didn't find any

Jaclyne Wilson

[1] ...DETECTIVE JAMES SLOAN, after having
[2] been first duly sworn, was examined and testified as
[3] follows:
[4] ---
[5] **COURT CRIER:** State your name, badge
[6] number for the record and spell your last name.
[7] **THE WITNESS:** Detective James Sloan,
[8] S-L-O-A-N, Badge No. 891, assigned to Northwest
[9] Detectives.
[10] **THE COURT:** You may proceed.
[11] **MS. FORCHETTI:** Thank you.
[12] ---
[13] DIRECT EXAMINATION
[14] ---
[15] **BY MS. FORCHETTI:**
[16] **Q.** Good afternoon, detective.
[17] **A.** Good afternoon.
[18] **Q.** Detective, how long have you been with the Philadelphia
[19] police?
[20] **A.** Nineteen years.
[21] **Q.** And how long have you been assigned to Northwest
[22] Detectives?
[23] **A.** Thirteen.
[24] **Q.** How many shootings would you say you've investigated
[25] over the course of your career?

Jaclyne Wilson

[1] witnesses. We didn't find any ballistics evidence out there.
[2] Went inside to the sneaker store. I spoke with the
[3] gentleman who just testified. Talked with him briefly, had
[4] him brought up to northwest. Shortly thereafter I resumed
[5] from the scene and went to Northwest Detectives and I later
[6] interviewed him.
[7] **Q.** Okay. Now, detective, when you say "ballistics
[8] evidence", do you mean fired cartridge casings, projectiles or
[9] bullets?
[10] **A.** When I say "ballistics", I'm saying handguns, fired
[11] cartridge casings, projectiles, fragments, anything that could
[12] indicate that a shooting happened out there.
[13] **Q.** And you were not able to find it?
[14] **A.** No.
[15] **Q.** Okay. Did any of the people that were around come
[16] forward and offer themselves as eyewitnesses?
[17] **A.** Nobody witnessed the actually shooting, no. But,
[18] again, the gentleman who just testified had some knowledge of
[19] the complainant. So if you want to call him a witness, I
[20] interviewed him.
[21] **Q.** Okay. And was he the only civilian you interviewed in
[22] connection with this case?
[23] **A.** I believe so, yes.
[24] **Q.** Okay. Were you present when the victim was interviewed
[25] in this case?

Jaclyne Wilson

[1] **A.** Yes, I was.
[2] **Q.** Okay. And where did that interview take place?
[3] **A.** At Einstein.
[4] **Q.** And in what condition was the victim when you saw him?
[5] **A.** I don't recall. I don't recall his condition. I know
[6] we talked with him but this investigation was not mine. So it
[7] sounds cold but every shooting you don't remember every part
[8] of it.
[9] **Q.** Okay. Were you present when a photographic array was
[10] shown to this victim?
[11] **A.** I was in the room. Again, I do not remember it though.
[12] **Q.** Okay. Do you remember asking the victim any questions?
[13] **A.** I know I asked the victim a question, yes. The final
[14] question of the interview.
[15] **Q.** What did you ask him?
[16] **A.** Something to the effect of, How do you feel now or
[17] something to that effect because I want to see -- I want to
[18] get the way their mind set is at the time of the interview. I
[19] had a DA tell me you should really ask that question just in
[20] case the person passes way. So around that time, that was the
[21] kick that I kept on saying that. So after Detective Acerenza
[22] concluded his interview, I asked that question and he wrote it
[23] down.
[24] **Q.** Detective Acerenza is the assigned investigator?
[25] **A.** Yes.

Jaclyne Wilson

[1] store?
[2] **A.** I believe there was an Asian gentleman and an Asian
[3] female.
[4] **Q.** Were you able to interview those individuals?
[5] **A.** I didn't interview either of them, no.
[6] **Q.** And did you look into whether or not the sneaker store
[7] had any video footage?
[8] **A.** Yes. I looked into it. The store was in the process
[9] of being closed down. The camera system was off.
[10] **Q.** And, detective, was that the extent of your role in
[11] this investigation?
[12] **A.** Yes.
[13] **Q.** Okay. Now, so you did not collect any evidence from
[14] this scene; is that right?
[15] **A.** No.
[16] **Q.** Okay. And when you say you walked the scene, what area
[17] did you walk?
[18] **A.** Walked from Stenton and Johnson, down Johnson both
[19] sides of the street, around the bar, went up on some of the
[20] steps. Basically three quarters of the block, I would say.
[21] **Q.** Okay.
[22] **A.** Including the alleyway behind -- across the street from
[23] the sneaker store. There's an alleyway. We went back there
[24] looking also.
[25] **Q.** Why did you look in that alleyway?

Jaclyne Wilson

[1] **Q.** And you assisted him in this investigation?
[2] **A.** To an extent, yes.
[3] **Q.** Okay. Did you perform any other parts of the
[4] investigation?
[5] **A.** I assisted in obtaining two search warrants.
[6] **Q.** Okay. For what were those search warrants?
[7] **A.** One was for CCI records which are 911 calls. We have
[8] to get a search warrant to go into the database to see who
[9] called 911. The other one was for the defendant's address.
[10] If I may look at my notes? It was 1528 East Johnson. I
[11] helped prepare that search warrant.
[12] **Q.** And, detective, where is 1538 East Johnson in relation
[13] to Stenton and Johnson?
[14] **A.** I believe it's like a block and a half away.
[15] **Q.** Okay. And, detective, did other detectives actually
[16] execute that search warrant?
[17] **A.** Yes.
[18] **Q.** And which detectives were those?
[19] **A.** I believe it was Detective Grace and Suchinsky.
[20] **Q.** Also assigned to Northwest?
[21] **A.** Yes.
[22] **Q.** Now, detective, how would you describe Mr. Wright's
[23] demeanor when you interviews him?
[24] **A.** His demeanor? He was forthcoming.
[25] **Q.** Okay. Were there any other employees at the sneaker

Jaclyne Wilson

[1] **A.** We were just looking for any ballistics evidence. I
[2] don't know where he was shot at. I just know where there's
[3] blood, in the street.
[4] **Q.** Now, detective, was your partner, Detective Geliebter,
[5] with you when you went with Detective Acerenza to the hospital
[6] to interview the victim?
[7] **A.** Yes.
[8] **Q.** And was it the three of you detectives that were
[9] present with Mr. Talbert, the victim in this case?
[10] **A.** Yes.
[11] **Q.** Were there any other people there that you remember?
[12] **A.** Not that I recall.
[13] **Q.** Other than the interview of Mr. Wright and the two
[14] search warrants that you mentioned, did you prepare any other
[15] paperwork in connection with this case?
[16] **A.** I do not believe so.
[17] **Q.** Thank you, detective.
[18] **MS. FORCHETTI:** I don't have anymore
[19] questions.
[20] **THE COURT:** You may cross-examine.
[21] **MR. LORUSSO:** I have no questions of
[22] Detective Sloan.
[23] **THE COURT:** Thank you, sir. You may step
[24] down.
[25] (Witness excused.)

Jaclyne Wilson

[1] **THE COURT:** Ladies and gentlemen, we'll
[2] take a very short recess.
[3] Everybody remain in place until the
[4] jurors have left the courtroom, please.
[5] (Jury exits the courtroom at 2:43 p.m.)
[6] **THE COURT:** Let the record reflect the
[7] jurors have left the room.
[8] How much time will you need, ma'am?
[9] **MS. FORCHETTI:** Fifteen minutes.
[10] **THE COURT:** Start up again at five
[11] minutes to 3:00.
[12] **MS. FORCHETTI:** Okay.
[13] (Short recess.)
[14] **THE COURT:** All right. We're back on the
[15] record in our trial case. The case of Commonwealth
[16] vs. Johnnie Simmons, CP-51-CR-0004773-2011.
[17] Mr. Simmons is here with his attorney, Mr. Lorusso.
[18] The Commonwealth by Ms. Forchetti.
[19] Yes, ma'am.
[20] **MS. FORCHETTI:** Your Honor, there's a
[21] matter I wish to bring to the Court's attention at
[22] this time.
[23] **THE COURT:** Go ahead.
[24] **MS. FORCHETTI:** When witness Mr. Gerald
[25] Wright left the stand, he was observed by Officers
Jaclyne Wilson

[1] relevance of that is.
[2] **THE COURT:** Is it relevant?
[3] **MS. FORCHETTI:** It shows the bias of that
[4] witness. The witness was uncooperative and had to
[5] be confronted with his own statement and changed his
[6] testimony when he testified. Now, that conduct help
[7] gives a reason. He testified that he did not know
[8] the defendant.
[9] **THE COURT:** It's my recollection.
[10] **MR. LORUSSO:** That's not my recollection
[11] that he didn't know him. I don't recall that he was
[12] ever even asked if he knew about this defendant. I
[13] think the question was in the statement that --
[14] **THE COURT:** Hold on for a second.
[15] There's a conversation going on here.
[16] Can you just give us a moment? What happened to
[17] simple courtesy in the city.
[18] **THE DEFENDANT:** He asked me a question.
[19] **THE COURT:** It's like we're in the wild,
[20] wild west. I'm having a conversation and you're
[21] speaking in my ear. Can you just hold on for a
[22] second?
[23] Would you continue, please.
[24] **MR. LORUSSO:** I'm sorry, Your Honor. My
[25] recollection is in terms of his statement and that's
Jaclyne Wilson

[1] Long and Alexander outside in the hallway of this
[2] Courtroom 802 hugging the defendant's mother and
[3] telling her, Don't worry. It will be all right.
[4] **THE COURT:** Okay.
[5] **MS. FORCHETTI:** I would like the
[6] opportunity to bring Mr. Wright back tomorrow and
[7] ask him about that.
[8] **THE COURT:** You don't need my permission
[9] for that.
[10] **MS. FORCHETTI:** Okay.
[11] **THE COURT:** Where's Mr. Wright?
[12] **MS. FORCHETTI:** He left the courtroom.
[13] **THE COURT:** Is he in the hall?
[14] **COURT CRIER:** No. I believe he left for
[15] the day.
[16] **THE COURT:** All right. Well, have him
[17] subpoenaed. If he doesn't show up, I'll issue a
[18] bench warrant.
[19] **MS. FORCHETTI:** Okay. I would also like
[20] the opportunity when Officer Long testifies to ask
[21] him about what he witnessed in the hallway.
[22] **MR. LORUSSO:** Well, I'm going to object
[23] to that, Your Honor.
[24] **THE COURT:** Why?
[25] **MR. LORUSSO:** I'm not sure what the
Jaclyne Wilson

[1] why I'm objecting to Officer Long. The question
[2] was, Have you seen the guy who came in after him
[3] before? The answer was, No. I really didn't look
[4] at him. I glanced at him, which is, you know, the
[5] implication and contrary to Detective Sloan's
[6] characterization of him being forthcoming,
[7] Mr. Wright, he testified to everything that was
[8] in the statement.
[9] **THE COURT:** It's not prejudicial. It's
[10] relevant. I will permit it. You have an objection.
[11] **MR. LORUSSO:** Thank you.
[12] **THE COURT:** Can we go forward?
[13] **MR. LORUSSO:** Then that basically puts me
[14] in a position of having to call Mr. Wright to
[15] explain something that --
[16] **THE COURT:** You don't have to call any
[17] witnesses.
[18] **MR. LORUSSO:** No. No. I understand
[19] but --
[20] **THE COURT:** All right.
[21] **MR. LORUSSO:** Okay. Thank you.
[22] **THE COURT:** Are we ready to proceed?
[23] **MS. FORCHETTI:** Yes, Your Honor.
[24] **MR. LORUSSO:** I'm sorry.
[25] **THE COURT:** Go right ahead.
Jaclyne Wilson

[1] **MR. LORUSSO:** I guess I may have to call
[2] eventually the defendant's mother to inquire as far
[3] as that's concerned. So perhaps I should ask her to
[4] leave the courtroom.

[5] **THE COURT:** That's entirely up to you.
[6] Is there anything else before we bring
[7] the jury out?

[8] **MS. FORCHETTI:** No, Your Honor.
[9] (Jury enters the courtroom at 3:06 p.m.)

[10] **THE COURT:** Please call your next
[11] witness.

[12] **MS. FORCHETTI:** Your Honor, at this time
[13] the Commonwealth calls Charles Talbert.

[14] **THE COURT:** Let's have Mr. Talbert sworn
[15] in, please.

[16] ...CHARLES TALBERT, after having been
[17] first duly sworn, was examined and testified as
[18] follows:

[19] ---
[20] **COURT CRIER:** State your name for the
[21] record and spell your last name.

[22] **THE DEFENDANT:** Charles Talbert,
[23] T-A-L-B-E-R-T.

[24] **THE COURT:** You may proceed.

[25] **MS. FORCHETTI:** Thank you.
Jaclyne Wilson

[1] ---
[2] DIRECT EXAMINATION

[3] ---
[4] **BY MS. FORCHETTI:**

[5] **Q.** Good afternoon, Mr. Talbert.

[6] **A.** How are you doing?

[7] **Q.** I'm fine. Thank you.

[8] How are you today?

[9] **A.** I'm trying to get this over with. I'm just in that
[10] mood. That's how I feel.

[11] **THE COURT:** Ask your next question,
[12] please.

[13] **MS. FORCHETTI:** Yes.

[14] **BY MS. FORCHETTI:**

[15] **Q.** Mr. Talbert, you don't want to be here today, do you?

[16] **A.** No, I don't.

[17] **Q.** Okay. You have told me that you do not wish to testify
[18] in this case; is that right?

[19] **A.** Yes.

[20] **Q.** Okay. Why is that?

[21] **A.** Because I'm not going to send an innocent person to
[22] jail for nothing.

[23] **Q.** Okay.

[24] **A.** That's not -- like, I never been intimidated. We're
[25] going to get this on the record. I never been intimidated in
Jaclyne Wilson

[1] my life, you know? I'm from the streets just like everybody
[2] else, you now? Me getting on the stand and testifying against
[3] anybody in the world, that's not me, you know?

[4] **Q.** Okay. Mr. Talbert, you were shot on February 4th of
[5] 2011; is that right?

[6] **A.** Yes.

[7] **Q.** How many times were you shot?

[8] **A.** I don't even know.

[9] **Q.** More than once?

[10] **A.** Yeah.

[11] **Q.** More than twice?

[12] **A.** Yeah.

[13] **Q.** Where were you shot?

[14] **A.** Where? What you mean?

[15] **Q.** Where on your body were you shot?

[16] **A.** My stomach, my arms, ain't nothing major. I took that
[17] and ate it.

[18] **Q.** You took that, I'm sorry?

[19] **A.** I took it and swallowed it. I'm still here. I'm still
[20] breathing.

[21] **Q.** All right. You were shot on February 4th. You went to
[22] Albert Einstein Medical Center?

[23] **A.** Yeah.

[24] **Q.** You stayed there until February 22nd of this year,
[25] 2011; is that right?

Jaclyne Wilson

[1] **A.** Yes.

[2] **Q.** You had to undergo several surgeries, correct?

[3] **A.** Yes.

[4] **Q.** Okay. And you are still recovering from that in that
[5] you still have a colostomy bag; is that correct?

[6] **A.** Yes, I have a colostomy bag and it would have been
[7] reversed by Monday but unfortunately I got to keep coming back
[8] down here to keep coming to court for you to pressure me into
[9] saying something that's not true.

[10] **Q.** Okay.

[11] **A.** And I can go to the hospital and get this reversed
[12] already before I get infected and I can die that way.

[13] **Q.** All right. You're irritated by the inconvenience of
[14] having to come in and testify in this shooting; is that right?

[15] **A.** This is really inconvenient because it's a medical
[16] issue. This is really inconvenient for me.

[17] **Q.** Okay. Now, do you remember speaking to the detectives
[18] a few days after you were shot?

[19] **A.** I don't even remember honestly because I was so
[20] medicated. They was in my -- I don't even know.

[21] **Q.** Okay.

[22] **MS. FORCHETTI:** Your Honor, I would ask
[23] to mark this six-page statement as Commonwealth
[24] Exhibit 9.

[25] **THE COURT:** It may be marked.
Jaclyne Wilson

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[1] (Statement (Talbert) marked Commonwealth
[2] Exhibit C-9 for identification.)
[3] **COURT CRIER:** So marked C-9.
[4] **BY MS. FORCHETTI:**
[5] **Q.** Mr. Talbert, you have a six-page statement in front of
[6] you.
[7] Do you want to tell me whose name appears at the
[8] top?
[9] **A.** That's my name.
[10] **Q.** Okay. Do you want to tell me whose signature appears
[11] on the bottom of the first page?
[12] **A.** That look like scribble scrabble to me.
[13] **Q.** Okay. Is that your signature, sir?
[14] **A.** It looks like scribble scrabble.
[15] **Q.** Okay. You're denying that that's your signature?
[16] **A.** This looks like scribble scrabble, Miss.
[17] **Q.** Okay. You want to turn to the second page of that
[18] statement, Mr. Talbert.
[19] Can you tell me whose name appears at the top?
[20] **A.** That's my name again.
[21] **Q.** Okay. Do you see the signature at the bottom of the
[22] page?
[23] **A.** Again, it looks like scribble scrabble.
[24] **Q.** Turn to the third page of the statement, Mr. Talbert.
[25] **A.** Yeah.

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[1] **A.** Yeah, I see it.
[2] **Q.** Do you see your name at the top?
[3] **A.** I see my name.
[4] **Q.** Do you see what you refer to as scribble scrabble at
[5] the bottom of the last question?
[6] **A.** That's scribble scrabble. You know it look like
[7] scribble scrabble.
[8] **Q.** Okay. Is that your statement, Mr. Talbert?
[9] **A.** I don't know. This is all scribble scrabble. That's
[10] not my signature.
[11] **Q.** Okay. At the time of the shooting, did you live on
[12] 1219 Barringer Street?
[13] **A.** Yes.
[14] **Q.** Is your date of birth --
[15] **A.** Well, actually, no, I don't live there. I used to live
[16] there but I don't live there no more. I been gone from that
[17] address. I been out of that house since the age of 13.
[18] **Q.** Okay. Did you tell the police that was your address at
[19] the time of the shooting?
[20] **A.** I did, yes, because I was locked up too, you know? I
[21] had -- I was, you know, I was locked up. I had drugs. I was
[22] being charged for intent to deliver and all that, so yeah.
[23] **Q.** At the of the shooting, right?
[24] **A.** Right. I was guilty of what I had on me so I had to
[25] lie.

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[1] **Q.** Can you tell me whose name appears at the top?
[2] **A.** That's my name again.
[3] **Q.** Okay. Can you -- do you see the signature at the
[4] bottom of the page?
[5] **A.** It looks like scribble scrabble.
[6] **Q.** Mr. Talbert, please turn to the forth page of the
[7] statement.
[8] Do you see your name at the top?
[9] **A.** Yeah, I see my name.
[10] **Q.** Do you see a signature at the bottom of the page?
[11] **A.** It look like my daughter wrote it.
[12] **Q.** Did your daughter sign this statement, sir?
[13] **A.** It look like scribble scrabble. I didn't write that.
[14] Listen, you can tell this is not a signature.
[15] **Q.** Okay.
[16] **A.** This is scribble scrabble. Seriously, look at it. It's
[17] scribble scrabble.
[18] **Q.** All right. Turn to page 5 of your statement.
[19] Do you see your name at the top of the page?
[20] **A.** Yeah, I see my name.
[21] **Q.** Okay. Do you see the signature at the bottom of the
[22] page?
[23] **A.** Once again, it looks like scribble scrabble.
[24] **Q.** All right. Turn to the last page, page 6.
[25] Do you see that?

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[1] **Q.** Okay. You had marijuana on you, correct?
[2] **A.** Right. I had \$195 worth. It wasn't something small.
[3] **Q.** You have had \$250 cash on you?
[4] **A.** I had cash, yeah.
[5] **Q.** Okay. And you were charged with possession with intent
[6] to deliver that marijuana; is that right?
[7] **A.** No. It got thrown out.
[8] **Q.** You were charged at the time, correct?
[9] **A.** Yeah.
[10] **Q.** That case is no longer open?
[11] **A.** It's no longer open.
[12] **Q.** You're in custody related to different other open
[13] charges; is that right?
[14] **A.** Right.
[15] **Q.** Okay. Is your date of birth March 27th, 1981?
[16] **A.** Yes.
[17] **Q.** And who is Ms. Clara Massey to you?
[18] **A.** That's my grandma.
[19] **Q.** Did you give the police her name and address?
[20] **A.** Yeah because that's -- I always do that.
[21] **Q.** Okay.
[22] **A.** You know, in case I go on the run, they just go there
[23] because I'm not going to be there.
[24] **Q.** Okay. So do you remember talking to the police in the
[25] hospital on February 8th of 2011, four days after the

Jaclyne Wilson

[1] shooting?
[2] **A.** Do I remember what?
[3] **Q.** Do you remember talking to the police four days after
[4] the shooting on February 8th in the hospital?
[5] **A.** I don't even remember talking to them. I just remember
[6] being there and being harassed by them. That's all I
[7] remember. That's all they kept -- like I'm -- my hands
[8] handcuffed to the building. My leg handcuffed to the other
[9] joint, you know what I'm saying? Till my girl paid my bail.
[10] They harassed me in the situation like that like. I just
[11] wanted them out of my room. They kept harassing me, like, you
[12] know, they kept harassing me. I just wanted them out of my
[13] room so I just said anything. Just go.
[14] **Q.** Okay. Three detectives came to visit you; is that
[15] right?
[16] **A.** Yeah. Three, four. I don't know. I was medicated. I
[17] was high.
[18] **Q.** You were high in the hospital?
[19] **A.** I was high. I was high. Every time my girl came up I
[20] would go in the parking lot and smoke weed.
[21] **Q.** I thought you just said you were handcuffed to the bed?
[22] **A.** No. When she paid my bail. After she paid my bail, I
[23] went out and smoke weed in the parking lot. Everyday.
[24] **Q.** While you were in intensive care in the hospital?
[25] **A.** Yeah. She rolled me out. Rolled me out in the
Jaclyne Wilson

[1] **Q.** Scribble scrabble.
[2] The same scribble scrabble that's on all six pages
[3] of you statement?
[4] **A.** Yeah. That's scribble scrabble. That's scribble
[5] scrabble. I don't see nothing else where it signed at up top.
[6] Scribble scrabble.
[7] **MR. LORUSSO:** Can the record reflect the
[8] defendant is referring or the witness is referring
[9] to the photograph at the top part as having been
[10] circled by him and the photograph on the bottom row
[11] has having been circled by the detective.
[12] **THE COURT:** I don't know that, sir. I
[13] can't see it from my vantage point. But you'll be
[14] afforded an opportunity to cross-examine him and if
[15] that is, in fact, the case, we can point it out.
[16] **MR. LORUSSO:** Thank you.
[17] **BY MS. FORCHETTI:**
[18] **Q.** All right. So, Mr. Talbert, you're telling us that the
[19] fourth picture in the photo array you circled and signed,
[20] right?
[21] **A.** I didn't sign anything. I circled it. I circled. I
[22] didn't sign anything. I circled. I put a circle around
[23] whoever this guy is right here. I circled it. That I ain't
[24] circle, the second circle and put scribble scrabble underneath
[25] it.
Jaclyne Wilson

[1] wheelchair, go right in the parking lot, smoke some weed.
[2] Seriously. You think I'm playing.
[3] **Q.** Okay.
[4] **MS. FORCHETTI:** Your Honor, I would ask
[5] to mark this document as Commonwealth Exhibit 10.
[6] **THE COURT:** Go right ahead.
[7] (Photo array marked Commonwealth Exhibit
[8] C-10 for identification.)
[9] **COURT CRIER:** So marked C-10.
[10] **BY MS. FORCHETTI:**
[11] **Q.** Mr. Talbert, you're being shown what's been marked as
[12] Commonwealth Exhibit 10.
[13] Do you recognize that?
[14] **A.** I recognize the person I circled up here, yes, up top.
[15] **Q.** Right. So that's who you circled?
[16] **A.** Right here.
[17] **Q.** Okay. You signed next to who you circled, right?
[18] **A.** Up here, yeah.
[19] **Q.** And then you signed next to the other person who you
[20] circled; is that right?
[21] **A.** The detective circled that.
[22] **Q.** Okay.
[23] **A.** I didn't circle that. The detective circled that.
[24] **Q.** Do you see your signature?
[25] **A.** That's scribble scrabble.
Jaclyne Wilson

[1] **Q.** Okay. So the sixth picture of the photo array you
[2] didn't circle and that's not your signature; is that right?
[3] **A.** No, it ain't.
[4] **Q.** And the signature next to fourth picture, that's not
[5] yours either?
[6] **A.** The circle or the signature?
[7] **Q.** Is signature?
[8] **A.** The signature is not mine.
[9] **Q.** There's a signature next to both pictures.
[10] **A.** This is scribble scrabble. I don't sign my name like
[11] that. I don't sign my name like that. I got a high school
[12] diploma. That's scribble scrabble.
[13] **Q.** Now, you told us already that you were selling weed
[14] that day?
[15] **A.** I'm a drug dealer.
[16] **Q.** On February 4th, the day you were shoot, right?
[17] **A.** Yeah. I'm a drug dealer.
[18] **Q.** You're a drug dealer. You're a criminal. You told us
[19] that, right?
[20] **A.** Yeah.
[21] **Q.** Okay.
[22] **A.** So how can my word be valid on the stand?
[23] **Q.** Okay. You told Detective Acerenza that you walked down
[24] Stenton Avenue to the sneaker store at Stenton and Johnson; do
[25] you remember saying that?
Jaclyne Wilson

[1] A. Say that again?
[2] Q. I walked down Stenton Avenue to the sneaker store at
[3] Stenton and Johnson.
[4] A. Honestly, I don't remember saying anything. I keep
[5] telling you I was medicated. I wanted them detectives out of
[6] my room.
[7] Q. Okay.
[8] A. They was bothering me. I was shot up. I'm shot up.
[9] They asking me all these questions. I'm just telling them
[10] anything to brush them off. Get out my room because they kept
[11] bothering me. So I don't remember anything.
[12] Q. Okay.
[13] A. If I said anything, whatever you have in these
[14] statements, I don't remember anything I said.
[15] Q. All right. Now, then you said, On my way to the
[16] sneaker store a young boy asked me if I had weed for sale.
[17] Do you remember saying that?
[18] A. I don't remember saying that.
[19] Q. He had glasses on. I told time that I didn't sell weed
[20] no more.
[21] Do you remember saying?
[22] A. I don't remember saying it.
[23] Q. Okay. I told him that I would sell it to him based on
[24] his strength. I sold him a bag of weed. From there I walked
[25] to the sneaker store and brought a phone and a shirt.

Jaclyne Wilson

[1] Q. I reached in my pocket and took out a bag of weed to
[2] exchange it.
[3] Do you remember saying that?
[4] A. I don't remember saying that.
[5] Q. He took the bag of weed and left. While I'm waiting
[6] for my phone to get programmed, the original guy with the
[7] glasses came in.
[8] Now we're on page 2 of your statement. Do you
[9] remember saying that?
[10] A. No.
[11] Q. He said that someone who wants to buy a bag of weed.
[12] He said that someone else wants to buy a bag of weed. I said,
[13] Look, I told you --
[14] A. That sound like a made up story, doesn't it?
[15] Q. -- I told you I don't sell -- I told you before I don't
[16] sell weed. He said that someone across the street wants to
[17] buy weed.
[18] Do you remember saying that?
[19] A. I don't remember saying that.
[20] Q. I told him that I would see who it is and decide if I
[21] would to sell it to him. I left my phone and stuff in the
[22] store and walked across the street.
[23] Do you remember saying that?
[24] A. No, I don't.
[25] Q. I saw the same guy that I talked to about the exchange.

Jaclyne Wilson

[1] Do you remember saying that?
[2] A. I don't remember saying that.
[3] Q. Okay. Did you buy a phone and a shirt that day?
[4] A. Yeah, I brought a phone.
[5] Q. Okay. Did you buy a shirt that day?
[6] A. I think I did. I can't remember.
[7] Q. All right. While I was in the store, the guy that shot
[8] me came in.
[9] Do you remember saying that?
[10] A. I don't remember saying nothing like that.
[11] Q. Okay.
[12] A. I remember buying a shirt and a phone though.
[13] Q. He told he that the bag of weed I sold the guy was too
[14] small.
[15] Do you remember saying that?
[16] A. No, I don't remember saying that.
[17] Q. All right. I reached in my pocket about took out a bag
[18] of weed.
[19] A. That's funny because all my bags of weed are big, you
[20] know what I'm saying? Ain't none of my bags of weed small.
[21] Q. Okay. You sell heavy bags; is that --
[22] A. Seriously.
[23] Q. Is this funny to you, Mr. Talbert?
[24] A. I'm being -- you asked me a question and we holding a
[25] conversation.

Jaclyne Wilson

[1] So when I walked over there I said, What's up? As soon as I
[2] said, What's up, he pulled out and shot me in the stomach with
[3] a gray gun.
[4] Do you remember saying that?
[5] A. No, I don't.
[6] Q. Once he shot me, he shot me again and crumbled to the
[7] street.
[8] Do you remember saying that?
[9] A. I don't even use the word "crumbled". How a person
[10] going to crumble to the street?
[11] Q. I could be misreading this detective's handwriting. It
[12] may have said crawled to the street. We'll have to ask
[13] Detective Acerenza.
[14] He shot me again. Do you remember saying that?
[15] A. No, I don't.
[16] Q. It sounded like he was trying to shot me again.
[17] A. It sounded like he was trying to shot me again? That
[18] doesn't even make sense.
[19] Q. Do you remember saying that?
[20] A. No. It don't even make sense.
[21] Q. Okay. I was just laying there crawling in the street
[22] asking for people to help me.
[23] A. Wasn't even nobody around. How am I going to ask
[24] somebody to help me if nobody's around.
[25] Q. I remember someone with a gun out. I think it was an

Jaclyne Wilson

[1] undercover cop.
[2] **A.** I was seeing stars. I don't remember nothing.
[3] **Q.** There was a guard from the sneaker store and a Muslim
[4] person over me. I thought I was going to die out there. I
[5] don't remember getting in any ambulance.
[6] Do you remember saying that?
[7] **A.** I don't remember saying none of that.
[8] **Q.** Then Detective Acerenza asked you, Can you describe the
[9] male that shot you?
[10] Do you remember saying, Slim, light skin, short,
[11] skinny face, small head, khaki set of cargos, tan or beige, no
[12] facial hair, 19 to 20 years? Do you remember saying that?
[13] **A.** Not at all.
[14] **Q.** And then the detective asked you, Have you ever seen
[15] him before?
[16] And your answer was, No.
[17] Do you remember saying that?
[18] **A.** I don't remember saying that.
[19] **Q.** On page 3 Detective Acerenza asked you, Can you
[20] describe the gun?
[21] Do you remember him asking you that?
[22] **A.** No, I don't.
[23] **Q.** Your answer was, Gray. About 6 to 8 inches. It had
[24] thing on the back but I couldn't tell if it was a
[25] semiautomatic or revolver.

Jaclyne Wilson

[1] **A.** I don't even know him. Like, I don't even know him.
[2] **Q.** Why did you circle a picture on top, Photograph No. 4?
[3] **A.** Why did I circle the photo on top?
[4] **Q.** Do you remember the detective asking you that at the
[5] time you took this interview?
[6] **A.** I thought you were asking me that.
[7] **Q.** I know you can't wait to tell the jury about how this
[8] isn't the guy that shot you but I'm asking you about this
[9] question.
[10] **A.** I'm going -- I don't remember saying enon of this.
[11] Anything that you're saying, I don't remember. I was in the
[12] hospital under medication.
[13] **Q.** Mr. Talbert, there's no question pending.
[14] Why did you circle a picture on top, No. 4?
[15] Your answer was, I was scared. I circled the one on
[16] the bottom first.
[17] Do you remember saying that?
[18] **A.** No, I don't.
[19] **Q.** Then the detective asked you, Does the second
[20] photograph that you circled, No. 4, have anything to do with
[21] the shooting?
[22] And your answer was, No.
[23] Do you remember saying that?
[24] **A.** I don't remember saying that.
[25] **Q.** Then you were asked, Are you sure that the photo that

Jaclyne Wilson

[1] Do you remember saying that?
[2] **A.** No, I don't.
[3] **Q.** Then Detective Acerenza asked you, I showed you a photo
[4] array with eight photographs. Did you see the person that
[5] shot you in the photo array?
[6] **A.** Huh? I ain't hear you. Say that again?
[7] **Q.** Can you pay attention please, Mr. Talbert?
[8] **A.** I'm paying attention.
[9] **Q.** I showed you a photo array with eight photographs. Did
[10] see the person that shot you in that photo array?
[11] **A.** Yes and I put -- I circled the top one, the top one
[12] right-hand corner here.
[13] **Q.** Your answer was, Mr. Talbert --
[14] **A.** It wasn't two people that shot me. It's two circles
[15] around two different people.
[16] **Q.** Mr. Talbert, why don't you take a look at page 3 and
[17] you'll see your response. It's the third question, I'm sorry,
[18] the second question on the page.
[19] I think the one on the bottom is the one that shot
[20] me. Now that I think about it, his name is Johnnie. I think
[21] he is the one that shot me.
[22] **A.** I ain't even know his name.
[23] **Q.** Do you see your response there?
[24] **A.** I never knew his name.
[25] **Q.** Okay.

Jaclyne Wilson

[1] you circled first, Photograph No. 6, is the person that shot
[2] you?
[3] And your answer here on the bottom of page 3 is,
[4] Yes, I am sure.
[5] Mr. Talbert, do you remember saying that?
[6] **A.** No, I don't.
[7] **Q.** Then you were asked, Do you know the male that you
[8] identified as shooting you?
[9] Your answer was, I know him from the neighborhood.
[10] Do you remember saying that?
[11] **A.** No, I don't.
[12] **Q.** Then he asked you, How long have you known him?
[13] Your answer was, A few years.
[14] Do you remember saying that?
[15] **A.** No, I don't.
[16] **Q.** Now we're on page 4 of your six-page statement.
[17] And the detective asked you, Is there any reason
[18] that this male would want to shoot you?
[19] And your answer was, He has ties to TI. TI is a guy
[20] that I testified against about three or four years ago. I
[21] ended up not testifying against him.
[22] Do you remember saying that?
[23] **A.** No, I don't.
[24] **Q.** Okay.
[25] **A.** I don't even know who TI is. Who that?

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[1] **Q.** Then, Mr. Talbert, you were asked what was the nature
[2] of that incident?

[3] And your answer was, He tried to run me over. He
[4] got locked up for running me over but I didn't testify against
[5] him. I got locked up then because I hit a woman. He's
[6] probably being mad because of that whole situation.

[7] Do you remember saying that?

[8] **A.** Because I hit a woman?

[9] **Q.** Hit or had. Again, the handwriting is hard to
[10] decipher.

[11] **MR. LORUSSO:** Had a warrant.

[12] **MS. FORCHETTI:** I'm sorry. You're right,

[13] Mr. Lorusso.

[14] **BY MS. FORCHETTI:**

[15] **Q.** Had a warrant.

[16] **A.** No, I ain't say it. I don't remember having a warrant.

[17] **Q.** All right. Then the detective asked you, Where and
[18] when did that incident occur?

[19] And you answered, About four years ago at Stenton
[20] and Cliveden Street.

[21] Do you remember saying that?

[22] **A.** No.

[23] **Q.** Can you sit up, please, Mr. Talbert?

[24] Then you were asked, Why did you think your shooting
[25] had to do with that incident?

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[1] glasses?

[2] And you said, Skinny, light-skinned, taller than the
[3] other guy, low cut, 19 to 20 years, 125 to 130 pounds, a
[4] little mustache. I can't remember what he was wearing.

[5] Do you remember saying that?

[6] **A.** No.

[7] **Q.** Then the detective asked you, Did you see where the
[8] shooter and the male with the glasses went after the shooting?

[9] And your answer was, No. I was on the ground. I
[10] keep having flashbacks though.

[11] Do you remember saying that?

[12] **A.** No, I don't.

[13] **Q.** Then the detective asked you, Is there anything else
[14] that you can tell me about Johnnie?

[15] And your answer was, I think he lives around Duval
[16] Street or Johnson Street. His nickname the Mooch or Johnnie.

[17] **A.** I don't even know him.

[18] **Q.** Do you remember saying that?

[19] **A.** No.

[20] **Q.** Then you were asked, Were there any descriptive
[21] markings on Johnnie's clothing?

[22] And your answer was, Beige or white khaki suit.

[23] Do you remember saying that?

[24] **A.** No.

[25] **Q.** Then the detective asked you, Where are the items that

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[1] And your answer was, Because today my cousin Rachel
[2] told me that her friend Janae said that TI was calling from
[3] jail letting people know that I was home. He maybe trying to
[4] have me set up.

[5] Do you remember saying that?

[6] **A.** No, I don't.

[7] **Q.** Then you were asked, Have you seen the male you
[8] identified as Johnnie with TI in the past?

[9] And your answer was, Yes.

[10] Do you remember saying that?

[11] **A.** No, I don't.

[12] **Q.** Then you were asked, Do you know the other male with
[13] the glasses?

[14] And your answer was, He looked kind of familiar,
[15] like someone from the neighborhood. I don't know his name.

[16] Do you remember saying that?

[17] **A.** No, I don't.

[18] **Q.** Now we're on page 5 of your statement, Mr. Talbert.

[19] You were asked, where was the male with the glasses
[20] when you got shot?

[21] Your answer was, He was about 15 to 20 feet from the
[22] sneaker store standing there.

[23] Do you remember saying that?

[24] **A.** No, I don't.

[25] **Q.** You were asked, Can you describe the male with the
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[1] you brought from the sneaker store?

[2] Your answer was, They are still in the store. I
[3] used my Muslim name for the phone, Kalil Zekoe.

[4] **A.** That's not even my Muslim name.

[5] **Q.** Do you remember saying that?

[6] **A.** No.

[7] **Q.** Then the detective asked you, Was anyone else in the
[8] area when you were shot?

[9] Your Honor was, Not that I remember.

[10] Do you remember saying that?

[11] **A.** Nope.

[12] **Q.** Finally on page 6, Detective Acerenza asked you, Is
[13] there anything else that you can add?

[14] And your answer was, No.

[15] Do you remember saying that?

[16] **A.** No. I don't know. No.

[17] **Q.** The last question of the interview, Mr. Talbert, was,
[18] Can you tell me how you feel at this time?

[19] And your answer was, I'm afraid that I'm not going
[20] to make it.

[21] **A.** I never said that because I already knew I was going to
[22] make it.

[23] **Q.** Do you remember saying that?

[24] **A.** No.

[25] **Q.** Do you remember anything about this interview?

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[1] A. No, I don't. I remember being badgered and harassed by
[2] detectives over and over again about me having weed in my
[3] pocket.
[4] Q. Okay. Did you sign this interview?
[5] A. That's scribble scrabble. That's not mines. The
[6] detectives is known to make up stories.
[7] Q. Okay. All right. Now, when did you -- got out of the
[8] hospital on February 22nd to be exact; is that right?
[9] A. Say that again?
[10] Q. You got out of the hospital February 22nd of this year,
[11] 2011, correct?
[12] A. I don't remember. I can't remember the day. I don't
[13] know the day. I just know I left.
[14] Q. Okay. You left the hospital, right?
[15] A. Yes.
[16] Q. You still had an open wound in our abdomen?
[17] A. Yes.
[18] Q. You had to have a home health care aid help you change
[19] the dressings, correct?
[20] A. Yes but we ended up going through something. Me and
[21] her start arguing so I ended up taking care of it myself so,
[22] you know.
[23] Q. You still had on open wound at the time you left the
[24] hospital, right?
[25] A. Yeah but it been healed up. I'm about to get it
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[1] preliminary hearing?
[2] A. I can't remember your face, no.
[3] Q. Okay. Do you remember waiting for me in my office when
[4] I got back from court the one day?
[5] A. I was outside, yeah.
[6] Q. Do you remember talking to me then?
[7] A. Yeah. I was asking you for some money.
[8] Q. Right. You wanted to be relocated, correct?
[9] A. I wanted some money.
[10] Q. You didn't want to go back to the same neighborhood
[11] where you were living, right?
[12] A. I been living there. I was staying there. You ain't
[13] do nothing to help me. So what? You ain't give me no money.
[14] You ain't put me nowhere. I stayed in the same neighborhood
[15] after I got shot. So what was the point of even coming to you
[16] for help.
[17] Q. Okay. You came to my office for help.
[18] Do you remember that?
[19] A. But do you remember you helping me? No.
[20] Q. Do you remember talking to Leland Kent?
[21] A. Did he help me? No.
[22] Q. Do you remember talking to Leland Kent, yes or no?
[23] A. I talked to some guy. I don't remember his name.
[24] Q. Do you remember talking to Leland?
[25] A. I remember talking to a guy. I don't know his name.
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[1] reversed, you know, go the whole process. It ain't nothing.
[2] Q. You testified at the preliminary hearing in April about
[3] two months after you got out of the hospital.
[4] Do you remember that?
[5] A. You said I testified what?
[6] Q. At a preliminary hearing in April?
[7] A. See I'm bipolar, schizophrenic. Some things I just
[8] can't remember and that's documented. You can check my
[9] medical records since the age of 12. I'm bipolar,
[10] schizophrenic. Some things that I may say, some things I may
[11] do, I don't even mean. Some things I may forget. I may say
[12] something right now and tomorrow I'll forget it or I don't
[13] remember even saying it. I'm bipolar, schizophrenic. It's
[14] documented on paper.
[15] Q. My question to you, Mr. Talbert, was, Do you remember
[16] coming to a preliminary hearing in April of this year, a few
[17] months ago?
[18] A. I don't remember.
[19] Q. Do you remember me being there?
[20] A. I seen you a couple times.
[21] Q. Right. You've met me before this day, correct?
[22] A. I seen you on the streets.
[23] Q. You've met me before this day, correct?
[24] A. In the streets, yeah.
[25] Q. Do you remember meeting me for the first time at the
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[1] Q. Okay. And he was trying to help you find somewhere to
[2] live, right?
[3] A. No, he wasn't.
[4] Q. That's why you were talking to him, so you could live
[5] somewhere else, right?
[6] A. I was talking about getting some money because that's
[7] all I was really worried about because I stay in the
[8] neighborhood. I was in the neighborhood after I got shot.
[9] They see me on Stenton Avenue. They see me everywhere in the
[10] hood. I ain't trying to hide.
[11] Q. Do you remember testifying on April 26th of this year,
[12] 2011, right across the hall, Courtroom 803?
[13] A. I can't remember testifying. No, I can't.
[14] Q. Okay.
[15] A. I be taking medication a lot. I'm on certain
[16] medication. My mind be elsewhere. I tell you I'm bipolar,
[17] schizophrenic. I don't remember certain things. I know I
[18] came down here for my cases. I don't remember coming down
[19] here testifying against nobody, no.
[20] Q. Okay.
[21] MS. FORCHETTI: Your Honor, I would ask
[22] the mark these notes of testimony as Commonwealth
[23] Exhibit 11.
[24] THE COURT: They may be marked.
[25] Jaclyne Wilson

[1] (Notes of testimony marked Exhibit C-11
[2] for identification.)
[3] **COURT CRIER:** Your Honor, so marked C-11.
[4] **BY MS. FORCHETTI:**
[5] **Q.** Okay. Now, back in April of this year, 2011, it was me
[6] as the district attorney and Mr. Fiore as the defense
[7] attorney.
[8] Do you remember that?
[9] **A.** No.
[10] **Q.** Okay. Do you remember being sworn to testify to tell
[11] the truth on that day?
[12] **A.** No.
[13] **MS. FORCHETTI:** Counsel, on page 5.
[14] **MR. LORUSSO:** Thank you.
[15] **BY MS. FORCHETTI.**
[16] **Q.** Do you remember me asking you, Mr. Talbert, after
[17] directing your attention to February 4th of 2011, I asked you
[18] if you remember that day.
[19] And your answer was, Yeah.
[20] Do you remember that?
[21] **A.** No.
[22] **Q.** And then I asked you, At about two o'clock that
[23] afternoon were you in the area of 1300 Johnson Street here in
[24] Philadelphia?
[25] And your answer was, Yes.
Jaclyne Wilson

[1] exchanged it, you know what I'm saying, for another one. So
[2] we left out the store so.
[3] And I interrupted you at that point and I said, That
[4] was this defendant; is that right?
[5] **A.** No.
[6] **Q.** And your answer was, Yes.
[7] And I let the Court know, Indicating the defendant
[8] at the bar out of the court for the record.
[9] Do you remember that?
[10] **A.** No. You pointing at the wrong person because I ain't
[11] point at him.
[12] **Q.** Okay. Then I asked you to continue.
[13] And you said, So I'm still waiting for my cell phone
[14] to get charged up. The guy that I originally sold the first
[15] bag of weed to, he came from across the street by the
[16] apartment, wants something, some more weed.
[17] Now on page 8 you said, I got out of the store and
[18] go across the street. The dude was over here. He was over
[19] there. I'm like, What's up. When I say, What's up, he pulled
[20] out, started shooting me.
[21] Then I let the Court know again you were indicating
[22] the defendant, Johnnie Simmons, at the bar of the court for
[23] the record.
[24] Do you remember that?
[25] **A.** No. You keep pointing to somebody. I don't even know
Jaclyne Wilson

[1] Do you remember that?
[2] **A.** No.
[3] **Q.** Then I asked you, And what were you doing at that
[4] location on that day?
[5] And your answer was, Well, I got off the bus and I
[6] was walking down Stenton Avenue when some young boy asked me
[7] if I has some weed on me, you know, marijuana, whatever. So I
[8] sold him a bag of weed. I went to the sneaker store on
[9] Stenton and Johnson.
[10] Do you remember saying that?
[11] **A.** No. I don't even call it weed.
[12] **Q.** Okay. Then -- now we're on page 6 -- I next asked you,
[13] so, Mr. Talbert, you went into the sneaker store; is that
[14] right?
[15] And your answer was, Yes.
[16] Do you remember saying that?
[17] **A.** No.
[18] **Q.** Then I asked you, What happened while you were in
[19] there?
[20] And on page 7 your answer was, I was buying a cell
[21] phone or whatever. I was waiting for my phone, you know, to
[22] get charged up or whatever. The guy over there came in the
[23] store talking about the bag of weed that I sold to the other
[24] guy that he was with. It was small. That it wasn't big
[25] enough. So what I did was give him another bag of weed and
Jaclyne Wilson

[1] him over there.
[2] **Q.** Okay.
[3] **A.** You pointing at the attorney or the person?
[4] **Q.** When you testified in April --
[5] **A.** Who you pointing to? You pointing over --
[6] **Q.** I'm sorry. Mr. Talbert, I'm asking the questions.
[7] In April when you came into this courtroom across
[8] the hall, Courtroom 803, you came into this courtroom, you
[9] swore to tell truth and you pointed out Johnnie Simmons as
[10] person who shot you. Not once but twice so far. We're only
[11] on page 8 on the notes of testimony.
[12] **A.** I don't remember pointing to nobody.
[13] **Q.** Okay. I asked you, How many times were you shot,
[14] Mr. Talbert?
[15] And you said, About five, seven times.
[16] Do you remember that?
[17] **A.** Unh-unh.
[18] **Q.** Okay. Then I asked you, What part of your body were
[19] you shot?
[20] And you said, My stomach, my side, my back.
[21] Do you remember that?
[22] **A.** Unh-unh.
[23] **Q.** Okay.
[24] **A.** I wasn't shot in my back.
[25] **Q.** I asked you, How close was the defendant to you when he
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[1] shot you?
[2] Your answer was, Close.
[3] Do you remember saying that?
[4] **A.** No, I don't.
[5] **Q.** Okay. So then the Court, the judge, not this judge but
[6] another judge asked you, In terms of distance?
[7] And your answer was, Me and this lady was at.
[8] That's what you said. Do you remember saying that?
[9] **A.** No, I don't.
[10] **Q.** And the judge asked you, The stenographer?
[11] And your answer was, Yeah.
[12] So the judge said, Approximately, two to three.
[13] And your answer was, About 3 feet.
[14] We're on page 9 now. And the Court said,
[15] Approximately, 3 feet.
[16] Do you remember that?
[17] **A.** No, I don't.
[18] **Q.** Okay. Then I asked you, Did the defendant say anything
[19] to you while he was shooting at you?
[20] And your answer was, No. Nope.
[21] Do you remember that?
[22] **A.** I don't remember saying nothing.
[23] **Q.** Okay. Then I asked you, Did you remain standing for
[24] all five shots?
[25] And your answer was, No. The first two was -- the
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[1] And your answer was, Yeah.
[2] **A.** I was on the ground. I ain't get shot no more.
[3] **Q.** Okay. And the Court said, I'm sorry. I didn't hear.
[4] And so you repeated again, Yes.
[5] I asked you, Did you have a weapon on you that day?
[6] And your answer was, No.
[7] Then I asked you, After the defendant shot you, did
[8] he say anything to you before leaving?
[9] And you said, No.
[10] Do you remember that?
[11] **A.** No, I don't.
[12] **Q.** I asked you, Was there anyone else with him?
[13] And you said, Originally, that other young boy was
[14] there but I don't even know -- but I don't even though who he
[15] was. I think that's supposed to me know. I know him but I
[16] don't know the other guy.
[17] Do you remember saying that?
[18] **A.** No, I don't.
[19] **Q.** Now, I asked you, You know this defendant?
[20] And your answer was, Yeah, I know him.
[21] Do you remember saying that?
[22] **A.** I don't know him.
[23] **Q.** Okay. And I asked you, How do you know him?
[24] And you said, Before I got locked up, he was like
[25] new to the area, coming outside, you know? Little young boy
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[1] first one was in my stomach. Took my air out, you know what
[2] I'm saying? So I wasn't able to defend myself. So it kind of
[3] took my air out and I fell and he kept shooting.
[4] Do you remember saying that?
[5] **A.** No.
[6] **Q.** You fell to the ground; is that right?
[7] And you said, Yes.
[8] **A.** Say that again? Did I fall to the ground?
[9] **Q.** That's what I asked you and you said, Yes.
[10] Do you remember that?
[11] **A.** I don't remember having this discussion.
[12] **Q.** Okay. Luckily for you there was a court reporter there
[13] that took down all your words that day.
[14] Then you were asked, When you fell to the ground,
[15] were you seated on the ground or how was your body positioned?
[16] And you told the Court, I was like lying on my side
[17] holding my stomach in like I was watching a movie and stuff.
[18] Like I was losing a lot of blood, you know? I was trying to
[19] hold my body but a lot of blood was leaking. Then I felt the
[20] blood come out of my mouth. Then I passed out and tried to
[21] stay conscious when the ambulance came.
[22] Do you remember saying that?
[23] **A.** I don't remember passing out.
[24] **Q.** Okay. Then I asked you, on page 10, And while you were
[25] on the ground, did the defendant continue to shoot you?
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[1] coming out, you know what I mean? He was like 16, 17. I
[2] don't know how old he is. He's a young boy. We was already
[3] out there, you know what I'm saying?
[4] Do you remember saying that?
[5] **A.** No, I don't.
[6] **Q.** Okay. On page 11 I said, You know him from the
[7] neighborhood?
[8] And your answer was, Yeah.
[9] Do you remember saying that?
[10] **A.** No, I don't.
[11] **Q.** And I asked you, And for how long have you known him?
[12] And you said, I'd say a good year probably.
[13] Do you remember saying that?
[14] **A.** No, I don't.
[15] **Q.** Okay. And I asked you, About a year?
[16] And you said, Yeah, about a year.
[17] Do you remember saying that?
[18] **A.** No, I don't.
[19] **Q.** Then I asked you, How certain are you that this person
[20] in court is the same person that shot you?
[21] And your answer was, Quite sure. A hundred and nine
[22] percent sure. I don't forget faces.
[23] Do you remember saying that?
[24] **A.** No. I remember seeing that top person in the corner
[25] shot me.

Jaclyne Wilson

[1] Q. Okay. Then the defense attorney said, I'm sorry. I
[2] didn't hear what he said.
[3] And I repeated your answer for the Court, A hundred
[4] and nine percent, I believe he said.
[5] And we continued. And I asked you, Do you know of
[6] any reason why this defendant would want to shoot you?
[7] And your answer was, I don't even know honestly.
[8] Do you remember saying that?
[9] A. No, I don't remember saying that.
[10] Q. Okay. Then I asked you, Mr. Talbert, you said you were
[11] waiting for an ambulance to arrive. Did you go to the
[12] hospital that day?
[13] And your answer was, I went to Albert Einstein.
[14] Do you remember saying that?
[15] A. No.
[16] Q. And I asked you, What did they do for you at the
[17] hospital?
[18] And your answer was, They performed surgery. They
[19] brought me back to life, you know? I couldn't even breath.
[20] They had me on a breathing machine.
[21] Do you remember saying that?
[22] A. I don't remember saying that.
[23] Q. All right. We're on page 12 now.
[24] And I asked you, How long were you in the hospital?
[25] And you said, February 4th to about -- I'd say about
Jaclyne Wilson

[1] And you said, No. Around two o'clock sometime.
[2] Then he asked you, So it's still light out, correct?
[3] You said, Yes.
[4] Then Mr. Fiore asked you, Now, you said you had
[5] known the person you identified as my client for about a year,
[6] correct?
[7] And your answer was, Right.
[8] Do you remember saying that?
[9] A. No, I don't remember saying it.
[10] Q. Okay. On page 13 Mr. Fiore asked you, Had you had any
[11] other conversations or any other interactions with him in that
[12] year?
[13] And your answer was, Yeah.
[14] Do you remember that?
[15] A. I don't remember that.
[16] Q. Then Mr. Fiore asked you, And at any other time was
[17] there any problems between you and my client prior to that
[18] day?
[19] And your answer was, The only time -- I don't recall
[20] a problem. The boy said I sold him a bag of weed and he
[21] wanted his money back. That was the only problem I ever
[22] recall that we had.
[23] Do you remember saying that?
[24] A. I never even met young boy before.
[25] Q. Okay. Then the defense attorney says, Now, when you
Jaclyne Wilson

[1] three weeks.
[2] Do you remember saying that?
[3] A. No, I don't.
[4] Q. And I asked you, And how are you feeling today
[5] physically?
[6] And your answer was, I got a colonoscopy bag. I got
[7] blockage in my stomach where sometimes it's hard to go to the
[8] bathroom, you know? Chest pains a lot.
[9] Do you remember saying that?
[10] A. I don't get chest pains.
[11] Q. Okay. Then I finish my direct examination and the
[12] defense attorney cross-examines you. And he asks you
[13] questions.
[14] Do you remember that part of the testimony?
[15] A. No, I don't. I don't even remember none of this.
[16] Q. Okay. On page 12 Mr. Fiore started his
[17] cross-examination. And he said to you, Good afternoon,
[18] Mr. Talbert.
[19] You said, Yes.
[20] And the defense attorney said, Mr. Talbert, the
[21] assistant district attorney asked you if this was February
[22] 4th, 2011, correct?
[23] And your answer was, Yes.
[24] Then he asked you, Do you recall what time of day it
[25] was?
Jaclyne Wilson

[1] say that, are you referring to that incident the same day or a
[2] prior incident about the light bag? Do you understand my
[3] question?
[4] And you said, Say that again?
[5] So then Mr. Fiore repeats his question, Earlier you
[6] testified there was an issue about a possible light bag in
[7] that it was exchanged. Is that what you were talking about or
[8] were you talking about another prior incident before February
[9] the 4th?
[10] And then you asked him, You talking about the
[11] question she just asked me?
[12] And the Court interrupts and says, Let me ask the
[13] question. You just said that the only problem you ever had
[14] with him was a small bag. Is it that day or another time?
[15] And you asked the judge, Are you talking about when
[16] he wanted his money back?
[17] And the Court said, Yes.
[18] And your answer was, That was before the incident.
[19] And the Court says, So that was another time.
[20] So Mr. Fiore resumes his cross-examination on page
[21] 14 and he asks you, So the date of the incident, it was some
[22] other guy that a bag of weed was sold to, correct?
[23] And your answer was, Yes.
[24] Do you remember that?
[25] A. No, I don't.
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[1] **Q.** And he asked you, When you were in -- is it Philly
[2] Locker Room is the name of the store you were in?
[3] And you said, I don't recall the name of the store.
[4] So Mr. Fiore asked you, You were in a store that
[5] sells some kind of sneakers?
[6] Your answer was, Yes.
[7] And then Mr. Fiore asked you, And was it my client
[8] who came in and exchanged the bag?
[9] And your answer was, Yes.
[10] Do you remember saying that?
[11] **A.** I don't remember.
[12] **Q.** Then he asked you, What did he hand the bag of
[13] marijuana to you and you just handed him another one?
[14] And your answer was, Yes.
[15] Do you remember that?
[16] **A.** No, I don't.
[17] **Q.** Now on page 15 Mr. Fiore asked you, How long after that
[18] did the shooting incident happen?
[19] And your answer was, Maybe ten minutes. Homey came
[20] in the store. His homey basically lured me out the store to
[21] outside, you know, and told me somebody wanted some weed
[22] across the street. So when I seen him across the street, I
[23] said, What's up? Like I just sold something, what's up.
[24] And Mr. Fiore said, Let me stop you there. You said
[25] he was across the street. Do you walk over across the street

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[1] And you said, Say that again?
[2] Mr. Fiore said, At that point you were wondering why
[3] he called you out across the street, correct?
[4] And you said, Yeah.
[5] So then Mr. Fiore asks you, Did you have a
[6] conversation with him about that?
[7] And your answer was, There was no more conversation.
[8] Do you remember that?
[9] **A.** Unh-unh.
[10] **Q.** Okay. So you walked across the street -- we're on page
[11] 16 now -- and I believe you said, you said to him, What's up?
[12] I exchanged bags.
[13] Your answer was, I said, What's up. That's all I
[14] said.
[15] Do you remember that?
[16] **A.** No.
[17] **Q.** Okay. And at that point is when you saw the gun?
[18] And your answer was, He pulled out and shot me.
[19] Do you remember saying that?
[20] **A.** I never see no gun.
[21] **Q.** Okay. And the counsel asked you, Do you know where the
[22] gun was taken from out?
[23] And your anxious was, From the waist.
[24] And he asked you, Waistband?
[25] And you said, Yeah.

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[1] to him?
[2] And your answer was, Yes.
[3] Do you remember that?
[4] **A.** No.
[5] **Q.** So now you are face to face with him, correct?
[6] And your answer was, Yes.
[7] Do you remember that?
[8] **A.** No.
[9] **Q.** And did -- was there any exchange at that point for
[10] another bag of marijuana?
[11] And your answer was, No.
[12] Do you remember that?
[13] **THE COURT:** You have to answer, sir.
[14] **THE WITNESS:** No, I don't remember. I
[15] don't remember nothing.
[16]
[17] **BY MS. FORCHETTI:**
[18] **Q.** You don't remember a single word of your sworn
[19] testimony; is that right?
[20] **A.** No, I don't. I don't.
[21] **Q.** Okay.
[22] **A.** I told you. I'm bipolar, schizophrenic.
[23] **Q.** All right. Mr. Fiore says, So you asked him -- you
[24] said, What's up, because I just exchanged the bag for you,
[25] correct?

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[1] Do you remember saying that?
[2] **A.** No.
[3] **Q.** Okay. You were asked, Can you describe the weapon?
[4] And your answer was, I think it was silver.
[5] Do you remember saying that?
[6] **A.** No.
[7] **Q.** Then he asked you, You're not a hundred percent sure
[8] though?
[9] Your answer was, It was silver.
[10] He asked you again, It was silver?
[11] You said, Yes.
[12] Do you remember saying that?
[13] **A.** No.
[14] **Q.** All right. Then you were asked, Do you know if it was
[15] an automatic or revolver?
[16] Do you remember him saying that?
[17] **A.** No.
[18] **Q.** All right. He said that and you said, I don't know. I
[19] just know I got shot several times. I can't -- I don't think
[20] it was a revolver though.
[21] Then he asked you, After you saw the gun, did you
[22] turn around and start to run?
[23] Your answer was -- open your eyes please,
[24] Mr. Talbert.
[25] Your answer was, I tried to but I was out of breath.

Jaclyne Wilson

[1] I couldn't go nowhere.
[2] We're on page 17 now. Do you remember saying that?
[3] A. No, I don't.
[4] Q. Then you were asked, The first shot you said hit you
[5] in the stomach, correct?
[6] Your answer was, Yeah.
[7] Do you remember saying that?
[8] A. No, I don't.
[9] Q. Then you were asked, Did you actually see the gun being
[10] fired?
[11] Your answer was, Yeah.
[12] Then he asked, And where in your stomach did it hit
[13] you?
[14] Your answer was, Right here.
[15] And at that point, Mr. Talbert, do you remember
[16] pulling your shirt up and showing the Judge your open wound?
[17] A. No, I don't.
[18] Q. Do you remember doing that?
[19] A. No.
[20] Q. Okay. And the Court says, And for the record -- and
[21] the defense attorney asks, May I approach just a little bit?
[22] And the Court says, Yes.
[23] And the defense attorney asks you, Is it above or
[24] below your belly button?
[25] And your answer was, My belly button is right here
Jaclyne Wilson

[1] back where it could have killed me. If it was a little bit
[2] closer, it would have killed me.
[3] Do you remember say that?
[4] A. No.
[5] Q. Okay. You were asked, And were you shot in your back
[6] because you were on the ground on your stomach or because you
[7] had turned around?
[8] And your answer was, I guess when I tried to turn
[9] around.
[10] Do you remember that?
[11] A. No, I don't.
[12] Q. Okay. And he asked you, At that point you tried to
[13] turn around and run?
[14] And your answer was, Yeah.
[15] So the only time you could actually see the gun
[16] fired was the first time when you were shot, correct?
[17] And your answer was, When he shot me in my stomach.
[18] Do you remember that?
[19] A. No, I don't. I don't even remember seeing the gun.
[20] Q. Okay. Besides the grazes on your back, was there
[21] anywhere else you were potentially grazed or shot?
[22] Your answer was, Shot on my side.
[23] We're on page 19 now. And the defense attorney
[24] says, For the record, there's a scar on his left side.
[25] There's also a scar that looks like he's showing me on the
Jaclyne Wilson

[1] over on the side.
[2] And I described what you showed the Court,
[3] Indicating, for the record, an open wound a few inches above
[4] the belly button, right in the center of the abdomen.
[5] And the defense attorney said, That's fine.
[6] Do you remember doing that?
[7] A. No, I don't.
[8] Q. Okay. And the defense attorney asks you, You said you
[9] were shot other times; is that correct?
[10] And your answer was, Yeah.
[11] Do you remember saying that?
[12] A. No, I don't.
[13] Q. All right. We're on page 18 now. You were asked,
[14] After you passed out?
[15] And your answer was, I didn't pass out just yet. I
[16] was still on the ground.
[17] Do you remember saying that?
[18] A. No, I don't.
[19] Q. You were asked, How many times were you shot?
[20] And you said, The doctors don't even know how many
[21] times because the way I was shot. Some looked like they were
[22] in and out. I was grazed. I was grazed up and shot.
[23] And he says, Well, unfortunately, I'm going to have
[24] to go through them with you. Where were you grazed at?
[25] And you said, On my back, across my spine, along my
Jaclyne Wilson

[1] right side, Judge.
[2] Do you remember that? Do you remember lifting up
[3] your shirt again?
[4] A. No, I don't.
[5] Q. Okay. So then the defense attorney asks you, At some
[6] point do you lose consciousness?
[7] And you said, Yeah.
[8] Do you remember that?
[9] A. No.
[10] Q. Then the defense attorney asked you, At any point did
[11] the police bring anyone around to you to identify as a
[12] potential shooter?
[13] And you said, Yeah, when I was in the hospital.
[14] And he asked you, Was that my client?
[15] And you said, Yes.
[16] Do you remember that?
[17] A. No.
[18] Q. He asked you, At some point did you identify him that
[19] day as the person that shot you?
[20] And your answer was, Yes.
[21] Do you remember that?
[22] A. No.
[23] Q. He asked you, At some point did they bring somebody to
[24] you to identify?
[25] And you said, No.
Jaclyne Wilson

[1] The guy seemed taller?
[2] You asked, Seem taller?
[3] And the defense attorney asked, Do you recall making
[4] a statement -- do you recall them bringing to you and saying
[5] no, that's not the guy, the guy seemed taller?
[6] And then you asked on page 20, What do you mean
[7] bring them to me?
[8] And he asked you again, Was there anyone they tried
[9] to bring to you to identify?
[10] And you said, No. That's not the guy. And you
[11] said, No. They gave me like eight different photographs, you
[12] know what I'm saying, on a piece of paper with faces on there
[13] and I picked the person.
[14] Do you remember saying that?
[15] **A.** Yeah. I picked the top right-hand corner.
[16] **Q.** You were asked, And then they brought somebody
[17] physically to you?
[18] And you said, No. What do you mean physically?
[19] And you were asked, When you were at the hospital
[20] they never brought -- and then you said, You talking about
[21] guys? No.
[22] Mr. Fiore asked you, It was only through the photo?
[23] And your answer was, Through the photo.
[24] Then he said, So at no point did you ever make an
[25] identification or nonidentification of any one live person?
Jaclyne Wilson

[1] It seemed like it wasn't nobody to come to my aid.
[2] Do you remember saying that?
[3] **A.** No, I don't.
[4] **Q.** Then he asked you, When you initially -- when the
[5] police initially asked you who shot you, were you able to
[6] provide a name for them or did you say you just knew the
[7] person from the neighborhood?
[8] And your answer was, I just knew the person. I
[9] never know his name.
[10] And you were asked, You never knew his name?
[11] And your answer was, He's too young.
[12] Then you were asked, Did you give a description of
[13] the person who shot you on that day; do you recall?
[14] And your answer was, Yeah.
[15] Do you remember that?
[16] **A.** No.
[17] **Q.** And you were asked, Do you remember what the
[18] description was? If you don't, that's okay.
[19] And your answer was, Light-skinned, braids.
[20] Do you remember saying that?
[21] **A.** No.
[22] **Q.** Okay. That was the end of your testimony on April 26th
[23] of 2011 that ended the preliminary hearing.
[24] You don't remember a single word of it?
[25] **A.** No, I don't.
Jaclyne Wilson

[1] And your answer was, Not live, no.
[2] Do you remember saying that?
[3] **A.** No.
[4] **Q.** Then you were asked, You said when you went across the
[5] street the person that asked you to come out of the store was
[6] no longer there; is that fair to say?
[7] And your answer was, No. You talking about the
[8] person who lured me outside?
[9] And he says, Correct.
[10] On page 21 you said, He was standing outside the
[11] sneaker store when I walked past him to go to the other side
[12] of the street in the alleyway by the apartments.
[13] Do you remember saying that?
[14] **A.** No, I don't.
[15] **Q.** He asked you, Were you there by yourself or were you
[16] with any friends?
[17] And your answer was, I was coming from my pop's
[18] crib, walked down the street. I was down there by myself.
[19] Do you remember saying that?
[20] **A.** No.
[21] **Q.** Then you were asked, Do you know if there were other
[22] people out there while the shooting occurred that may have
[23] been witnesses?
[24] And your answer was, There were people out there. I
[25] know there were people out there but, you know, I don't know.
Jaclyne Wilson

[1] **Q.** You don't remember being there?
[2] **A.** Only court appearances I remember is the situations I'm
[3] going through.
[4] **Q.** Okay.
[5] **A.** That's the only thing I'm really worried about. I
[6] never even paid this no mind. Like, I may forget about today
[7] tomorrow.
[8] **Q.** Okay. So you don't remember Judge Charles Hayden being
[9] the judge at the preliminary hearing?
[10] **A.** I don't even -- I didn't keep records of these judges I
[11] could care less.
[12] **Q.** Okay. Do you remember sitting in front of a court
[13] reporter the same way you're sitting now?
[14] **A.** No, I don't.
[15] **Q.** Okay. Did you write a letter to the defendant in this
[16] case?
[17] **A.** Excuse me?
[18] **Q.** Did you write a letter to the defendant?
[19] **A.** You said, Did I write a letter to the defendant?
[20] **Q.** Yes.
[21] **A.** I don't remember.
[22] **MS. FORCHETTI:** Your Honor, I would ask
[23] to have this marked as Commonwealth Exhibit 12.
[24] **THE COURT:** It may be marked.
[25]
Jaclyne Wilson

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[1] (Letter marked Exhibit C-12 for
[2] identification.)
[3] **COURT CRIER:** So marked C-12, Your Honor.
[4] **MS. FORCHETTI:** For the record, it's
[5] three pages, Your Honor.
[6] **BY MS. FORCHETTI:**
[7] **Q.** Mr. Talbert, are you reading over what's been marked
[8] Commonwealth Exhibit 12?
[9] **A.** Yeah, I'm reading.
[10] **Q.** Okay. You see your name at the top of the page?
[11] **A.** Yeah.
[12] **Q.** Okay. Do you see your photo identification number?
[13] **A.** Yeah.
[14] **Q.** Okay. Do you see your address?
[15] **A.** Where my address at?
[16] **Q.** You were residing on State Road at the time, correct?
[17] **A.** Yeah. That's right here.
[18] **Q.** Okay. You see the first two pages of the letter,
[19] correct?
[20] **A.** Yeah.
[21] **Q.** Okay. And you see the third page is the envelope,
[22] right, that's a photocopy of the envelope.
[23] Do you see that?
[24] **A.** Yes, I see it.
[25] **Q.** You see the address on the envelope part is to Johnnie
Jaclyne Wilson

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[1] **Q.** Okay. And this is the letter you wrote to the
[2] defendant, right?
[3] **A.** Right.
[4] **Q.** And in the letter you offer to get up here and give the
[5] defendant his freedom, right?
[6] **A.** Huh?
[7] **Q.** Well, let's read the letter through, shall we?
[8] Your name appears at the top, Charles Talbert,
[9] 810247, right?
[10] **A.** Right.
[11] **Q.** Look at me. Let me know if I read anything wrong.
[12] **A.** I take your word for it.
[13] **Q.** Okay. Look at it. You can read, right?
[14] **A.** I can read. I got a high school diploma.
[15] **Q.** Okay. Charles Talbert, 810247, 7901 State Road, right?
[16] **A.** Yeah.
[17] **Q.** Then you write, Get at me ASAP, correct?
[18] **A.** Yeah.
[19] **Q.** And you say, Yo, I'm a make this nice and clear for
[20] you, right?
[21] **A.** I'm with you.
[22] **Q.** Stop me if I get it wrong.
[23] **A.** All right.
[24] **Q.** For one, I'm a say that was some shit you did.
[25] **A.** Some nut.
Jaclyne Wilson

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[1] Simmons, correct?
[2] **A.** Yeah.
[3] **Q.** Okay. And in the upper left-hand corner there is the
[4] initial C-T, correct?
[5] **A.** Yeah.
[6] **Q.** And that's your photo identification number next to it,
[7] right?
[8] **A.** Uh-huh.
[9] **Q.** It's 810247, right?
[10] **A.** Uh-huh.
[11] **Q.** Okay. Is this the letter you wrote to the defendant?
[12] **A.** That was a hate letter.
[13] **Q.** That was a hate letter. You wrote it though, right?
[14] **A.** I wrote it.
[15] **Q.** Yeah. You wrote it in October?
[16] **A.** I don't now when I wrote it.
[17] **Q.** Well, look at page 3. See the postmark on it is
[18] October 13th of this year, 2011, right?
[19] **A.** All right.
[20] **Q.** Right?
[21] **A.** All right. What's the point?
[22] **Q.** Yes or no? Do you see the postmark?
[23] **A.** Yes, I see it.
[24] **Q.** Is it October 13th, 2011?
[25] **A.** Yes, it was.
Jaclyne Wilson

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[1] **Q.** Some nut shit you did. All I really want to know is
[2] who paid you or put the bug in your ear to shoot me? You
[3] thought you killed me, didn't you? Ha. Ha. Real niggas
[4] don't die, nigga. But anyway, I'm going to make a nice
[5] proposition for you. This can either go down two ways. The
[6] first option is the option that I hope you take because
[7] honestly getting on the stand ain't my twist. So option one
[8] is get to your mother, father or whoever to come and drop a
[9] thousand dollars in my account. If they come up here and do
[10] this, walahee -- and that's a Muslim swearing word, right, to
[11] say I promise?
[12] **A.** I don't what that mean.
[13] **Q.** Okay. Walahee, I won't testify on you in court.
[14] You see that, right?
[15] **A.** Yeah. I never got the thousand dollars so I'm not
[16] testifying in court so what does this letter mean? I never
[17] got a thousand --
[18] **Q.** You wrote it.
[19] **A.** I never got a thousand dollars and I never -- I'm not
[20] testifying in court. So what's this letter mean?
[21] **Q.** All right. Walahee, I won't testify on you in court.
[22] I will let you back out and keep it street. I'm only saying
[23] this because a nigga needs some bread. You put six holes in
[24] me nigga. I know you ain't have beef with me so a nigga or a
[25] bitch you know must have paid you or sent you at me because
Jaclyne Wilson

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[1] that was none of our beef. You want this shit up off you,
[2] then you need to be straight up with me, little nigga. I know
[3] you don't want to sit in jail but I can be a dickhead and keep
[4] you there. You want to be a killer, huh? Ha. Ha. Well,
[5] option No. 2 is you can turn down this offer and go to trial.
[6] I got a bullet in my back and my hip. I also got a colostomy
[7] bag. That's attempted murder. That's seven and a half to 15
[8] years easily. You shot me, nigga, so you got a choice. You
[9] either pass off that stack into my account by November 1st or
[10] you be doing years up state with niggas like short,
[11] brown-skinned niggas with long hair. I honestly don't give a
[12] fuck which one you chose. I'm just giving you a chance to
[13] make things right between us. You know you up against a nigga
[14] that don't give a fuck, right? I gave the options. I advise
[15] you jump on that prison phone over PICC and start doing
[16] numbers. Get your people's to come visit me and I'll tell
[17] them face-to-face that what I'm saying is real. Ask TI. When
[18] I came to court for him, I told the judge that I didn't know
[19] him. I can do the same for you because testifying ain't in my
[20] blood. Like I said, I lost drugs and money from the police
[21] when your dumb ass shot me. Look, you got until November 1st
[22] to get a stack put into my account and a letter stating who
[23] send you at me, and if you feel scary about what I'm asking,
[24] just give your lawyer the money and have him come up here with
[25] papers for me to change my statement. That's all I can do for

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[1] because he didn't.
[2] Q. You told us in this letter that he shot you?
[3] A. He's just locked up for it.
[4] Q. Did you tell us in this letter that he shot you?
[5] A. I ain't tell you nothing. I wrote that to him.
[6] Q. You sent it to the defendant?
[7] A. I wrote it to him.
[8] Q. And sent it to the defendant?
[9] A. Yeah because he's locked up for this. I ain't saying
[10] he did it though.
[11] Q. You told us he did it in this letter, right?
[12] A. I told him to give me a stack and I won't come to
[13] court. I ain't get no thousand dollars and --
[14] Q. Who paid you or put the bug in your ear to shoot me?
[15] You write that, right?
[16] A. I wrote the whole letter. I wrote it.
[17] Q. Right. You never said in this letter that he didn't
[18] shoot you?
[19] A. Huh?
[20] Q. You never said in this letter that he wasn't the one
[21] that shot you, right?
[22] A. I wrote the letter. I know he didn't shoot me. I know
[23] he didn't shoot me.
[24] Q. You testified in court --
[25] A. Only reason why I out that is just in case he tried to

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[1] you. The choice is yours. But I'm a leave you with this,
[2] youngin', time is ticking. I know you want out of there. I
[3] want you out of there. I don't ever want to shoot you back.
[4] I just want to beat you the fuck up. But we'll handle that
[5] part later. Get me them two things and I promise that you
[6] will get your freedom back come December. I talk to my young
[7] boy. He asked about you too. I respect your work. But you
[8] going to respect this ass kicking I'm a give you when I get
[9] out. November 1st. Don't be a day late.
[10] You wrote that?
[11] A. What does that mean? I wrote it, yeah.
[12] Q. You tell us, What does that mean?
[13] A. It mean that -- all right he was locked up for this
[14] crime. I'm sitting in my cell broke. I ain't saying
[15] he -- I'm not actually going on the stand testifying that he
[16] did it. But since he locked up for it, I'm trying to get some
[17] money out of him. So I'm a swindler.
[18] Q. You're a swindler, right?
[19] A. I need some money. I'm a hustler. Like, if you locked
[20] up, I ain't saying he shot me.
[21] Q. You said he shot you in this letter?
[22] A. He's locked up for it.
[23] Q. You said he shot you in this letter, Mr. Talbert, yes
[24] or no?
[25] A. I'm not on this stand testifying that he shot me

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[1] use that against me. That's reason why I did that.
[2] Q. Okay.
[3] A. That's the reason I put that down just in case he tried
[4] to use that against me.
[5] Q. You told us, I'm a say that was some nut shit you did.
[6] Did you ever say in this letter, Mr. Talbert, that
[7] Johnnie Simmons wasn't the person that shot you?
[8] A. You keep asking me about the letter. That letter is
[9] between me and him. He know he didn't shoot me. He's on
[10] trial. They took the --
[11] Q. Mr. Talbert, answer my question.
[12] A. I'm answering it.
[13] Q. Did you ever say in that letter that he wasn't the
[14] person that shot you?
[15] A. Like I wrote that letter to him.
[16] Q. Yes or no?
[17] A. No, I ain't say it. No.
[18] Q. Okay. When you testified the first time in this case,
[19] you were cooperative, correct?
[20] A. I don't remember testifying, Miss. I'm bipolar,
[21] schizophrenic. We can do it a psychiatrist background check.
[22] I'm bipolar, schizophrenic. You know what that means? I'm
[23] not in my right mind. I take medication in the jail that I'm
[24] at for this. I take medication on the streets for being
[25] bipolar, schizophrenic. You can't trust a person's words

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[1] that's bipolar, schizophrenic. I get SSI checks.
[2] **Q.** But you've never been found incompetent, correct?
[3] **A.** Yes, I have been.
[4] **Q.** You've been found incompetent in your criminal cases?
[5] **A.** Mentally? Yes. Mentally.
[6] **Q.** The Commonwealth hasn't pursued charges against you
[7] because you're incompetent? You didn't understand what you
[8] were doing?
[9] **A.** No. They never press charges on that. You should have
[10] did a review first.
[11] **Q.** Mr. Talbert, there's no question pending.
[12] So you offered to let the defendant walk even though
[13] he shot you, right?
[14] **A.** He didn't shoot me.
[15] **Q.** Okay.
[16] **A.** I just told him to give me a thousand dollars and all
[17] this would be over with but he ain't give me no thousand
[18] dollars and I'm still trying to get this over because I'm not
[19] going to put something on somebody that didn't do nothing to
[20] me. You're trying to get me to say something that I'm not
[21] going to say. He did not shoot me.
[22] **Q.** All right. Mr. Talbert, you and I have had
[23] conversations in perpetration for this case, correct?
[24] **A.** I don't remember talking to you now, no.
[25] **Q.** Okay. You don't remember me coming the visit you and
Jaclyne Wilson

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[1] **A.** After I got shot.
[2] **Q.** Do you remember --
[3] **A.** No, I don't remember saying it. Why would I be on
[4] Stenton Avenue if I was scared?
[5] **Q.** Okay. But you've decided, Mr. Talbert, today in this
[6] trial that you're no longer going to cooperate; is that right?
[7] **A.** I'm not -- first of all I wasn't ever going to
[8] cooperate. I'm not going to cooperate against putting
[9] somebody innocent in jail. I'm not going to have that bad
[10] karma on me. I might go to jail and somebody might lie on me.
[11] **Q.** Okay.
[12] **MS. FORCHETTI:** Your Honor, I have no
[13] further questions.
[14] **THE COURT:** You may cross-examine.
[15] **MR. LORUSSO:** No questions, Your Honor.
[16] **THE COURT:** Thank you. We'll take a
[17] short recess.
[18] Everybody stay in place until the jurors
[19] have left the room, please.
[20] (Jury exits the courtroom at 4:16 p.m.)
[21] **THE COURT:** Let the record reflect the
[22] jurors have all left the room.
[23] (Short recess.)
[24] (Jury enters the courtroom at 4:26 p.m.)
[25] **THE COURT:** You may call your next
Jaclyne Wilson

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[1] talking to you in the little booth before you testified?
[2] **A.** Nope.
[3] **Q.** You don't remember that?
[4] **A.** No.
[5] **Q.** You don't remember me coming to talk to you with
[6] Detective Grace and Detective Suchinsky? Do you remember
[7] that?
[8] **A.** No, I don't remember that.
[9] **Q.** Okay.
[10] **A.** Nope.
[11] **Q.** You don't but you remember coming to see me at my
[12] office, right?
[13] **A.** Only time I remember coming to see you is asking you
[14] for money. That's it.
[15] **Q.** Okay.
[16] **A.** Other than that.
[17] **Q.** Do you remember coming to see Leland Kent from my
[18] office?
[19] **A.** Asking for money.
[20] **Q.** Okay.
[21] **A.** That's it.
[22] **Q.** Do you remember tell Leland Kent that you felt scared
[23] about going back to the neighborhood?
[24] **A.** People done seen me on Stenton Avenue.
[25] **Q.** Yes or no?
Jaclyne Wilson

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[1] witness.
[2] **MS. FORCHETTI:** Your Honor, at this time
[3] the Commonwealth calls Detective Michael Acerenza.
[4] ...DETECTIVE MICHAEL ACERENZA, after
[5] having been first duly sworn, was examined and
[6] **testified as follows:**
[7] ---
[8] **COURT CRIER:** State your name, badge
[9] number for the record and spell your last name.
[10] **THE WITNESS:** Detective Michael Acerenza,
[11] A-C-E-R-E-N-Z-A, Badge No. 8153, I'm assigned to
[12] Northwest Detectives.
[13] **THE COURT:** You may proceed.
[14] **MS. FORCHETTI:** Thank you.
[15] ---
[16] **DIRECT EXAMINATION**
[17] ---
[18] **BY MS. FORCHETTI:**
[19] **Q.** Good afternoon, detective.
[20] **A.** Good afternoon.
[21] **Q.** Detective, how long have you been with the Philadelphia
[22] police?
[23] **A.** Since 1996.
[24] **Q.** And for how long have you been assigned to Northwest
[25] Detectives?
Jaclyne Wilson

[1] **A.** Since 2004.
[2] **Q.** And during the time have you come to investigate many
[3] shootings?
[4] **A.** Yes, hundreds.
[5] **Q.** And have you ever had any issues with uncooperative
[6] witnesses before?
[7] **A.** Yes. Most of the time. We investigate shootings, a
[8] lot of the time the victims don't want to cooperate. They
[9] don't want to tell us -- give us a full statement or sometimes
[10] even their name.
[11] **Q.** Did you come to investigate a shooting that occurred on
[12] February 4th of 2011 in the area of the 1300 block of Johnson
[13] Street?
[14] **A.** Yes, I did.
[15] **Q.** How did you become assigned to that shooting?
[16] **A.** I was assigned to Northwest Detectives at the time.
[17] I'm a shooting team. I was working with my partner, Detective
[18] Hassel, H-A-S-S-E-L. I was working day work. Sometime after
[19] two o'clock p.m. on February 4th I received a phone call, a
[20] notification from police officers that there was a shooting
[21] incident at 1300 East Johnson Street. At that time I
[22] responded to the hospital at Einstein Hospital on Broad Street
[23] to begin an investigation.
[24] **Q.** So when you went to Einstein Hospital, did you see
[25] anyone there?

Jaclyne Wilson

[1] **MR. LORUSSO:** Objection.
[2] **THE COURT:** Sustained.
[3] **THE WITNESS:** I received information from
[4] Captain Singletary. After 4:30 p.m. or around that
[5] time I became aware that Police Officer Long from
[6] the 14th District had come into contact with the
[7] male and in the area of Stenton and Washington Lane.
[8] Police Officer Long transported that male to
[9] Northwest Detectives and I had a new photograph of
[10] the suspect, which at the time Johnnie Simmons
[11] seated next to counsel. I had a new photograph
[12] taken of Johnnie Simmons inside 35th district
[13] headquarters.
[14] **BY MS. FORCHETTI:**
[15] **Q.** What did you do with that photograph?
[16] **A.** With that photograph the next day I worked on February
[17] 8th. I prepared a photo array. I took the photograph that
[18] was taken on February 4th, placed it on a piece of paper
[19] in the computer database along with seven other photographs.
[20] I went to Albert Einstein Hospital and --
[21] **Q.** Detective, I'm sorry. Just to interrupt you there, can
[22] you explain to the jury how a photo array is developed?
[23] **A.** I took some of the biographical data, the height and
[24] weight, try to get the right skin tone and type of hair,
[25] similar photographs to the suspect, which in this case was

Jaclyne Wilson

[1] **A.** Yes. The shooting victim, Charles Talbert, was in the
[2] trauma unit at Einstein Hospital. I was not able to speak to
[3] him due to his condition. He was brought to the operating
[4] room.
[5] **Q.** Did you continue your investigation?
[6] **A.** Yes, I did. At the time I recovered the victim's
[7] clothing. Projectile was recovered from the trauma room from
[8] medical personnel and I went back the Northwest Detectives and
[9] began interviewing some of the witnesses.
[10] **Q.** Who did you interview that day?
[11] **A.** Police Officer Alexander, the off-duty officer.
[12] **Q.** Okay. Did you come to speak to any other witnesses on
[13] that day?
[14] **A.** I spoke to the other witnesses but they were formally
[15] interviewed by other detectives.
[16] **Q.** And was there anyone making identifications at this
[17] time?
[18] **A.** There were no identifications to be made. The victim
[19] was -- he was brought to the OR. He could not make an
[20] identification.
[21] **Q.** So how did you continue your investigation in a search
[22] for the shooter?
[23] **A.** I received information from my captain at Northwest
[24] Detectives, Captain Singletary. The information that I
[25] receive from him was that --

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[1] Johnnie Simmons. I tried to match it up that not one
[2] photograph stands out from another.
[3] **Q.** And Mr. Simmons, the defendant, was developed as a
[4] suspect at that time based on information you had received?
[5] **A.** Yes.
[6] **Q.** Okay. And so then why do you prepare the photo array
[7] with Mr. Simmons as the suspect?
[8] **A.** Well, I wanted to take the photo array to the
[9] complainant to show the complainant to see if he could
[10] identify the person that shot him.
[11] **MS. FORCHETTI:** Your Honor, I would ask
[12] the witness be shown Commonwealth Exhibit 10.
[13] **THE COURT:** He may be shown C-10.
[14] **BY MS. FORCHETTI:**
[15] **Q.** Detective, you're being shown an exhibit that's been
[16] marked as Commonwealth Exhibit C-10.
[17] Do you recognize the exhibit?
[18] **A.** I do recognize it. This is the photo array that I
[19] prepared with the photograph of the defendant, Johnnie
[20] Simmons, in the sixth spot.
[21] **Q.** So as you explained to us, detective, the photo array
[22] is built around this suspect?
[23] **A.** Yes. The first photo I use is the suspect's photograph
[24] and then I use the search by height and weight. I go up and
[25] below several inches. I try not to go too far off the weight

Jaclyne Wilson

[1] so the build of the other people in the photo array are
[2] similar.
[3] **Q.** So you try to find people that look similar in
[4] appearance to the suspect?
[5] **A.** Yes.
[6] **Q.** Okay. And why is that important?
[7] **A.** To show that one person doesn't stand out from the
[8] other. To be fair.
[9] **Q.** Now, what did you with this photo array?
[10] **A.** I took the photo array to Einstein Hospital where the
[11] victim was being treated. I showed the -- I went to Einstein
[12] and met with Charles Talbert, the victim. I was also with two
[13] other detectives, Detective Geliebter and Detective Sloan.
[14] **Q.** Now, detective, did you speak to Mr. Talbert before
[15] showing him the photo array?
[16] **A.** I did. I spoke to him briefly. I identified myself.
[17] I didn't get a chance to speak to him the day he was shot so
[18] on February 8th when I walked in, I identified myself as a
[19] detective. I let him know I'm investigating the shooting.
[20] Asked him about his injuries. If he has any future surgeries
[21] or surgeries he has. How he feels. I had a brief
[22] conversation with him.
[23] At that time I told him I was going to show him a
[24] photo array and to let me know if he sees the person that shot
[25] him in the photo array. So I handed the photo array to
Jaclyne Wilson

[1] **Q.** Were you surprised when Mr. Talbert circled the second
[2] photograph?
[3] **A.** Yes. He signed the second photo immediately. He
[4] signed the first photograph which he identified and then he
[5] signed the second photograph immediately.
[6] **Q.** Now, detective, prior to handing Mr. Talbert the pen,
[7] had he pointed to anyone in the array other than the
[8] defendant?
[9] **A.** No. He pointed with his finger to the photograph of
[10] Johnnie Simmons.
[11] **Q.** Did he say anything about any of other people in the
[12] photographic array?
[13] **A.** No.
[14] **Q.** When he pointed to the defendant's picture, did he say
[15] I'm not sure or anything qualifying?
[16] **A.** No. I asked him to tell me if he can identify the
[17] person that shot him and he pointed to the photograph of
[18] Johnnie Simmons.
[19] **MS. FORCHETTI:** Your Honor, I would ask
[20] the witness be shown what's been marked Commonwealth
[21] Exhibit 9.
[22] **THE COURT:** He may be shown C-9.
[23] **BY MS. FORCHETTI:**
[24] **Q.** Now, detective, you're being shown an exhibit that's
[25] been marked Commonwealth Exhibit 9.
Jaclyne Wilson

[1] Charles Talbert. He looked at the photo array for,
[2] approximately, ten seconds and pointed to the sixth photo
[3] which is the photograph of Johnnie Simmons. I handed the
[4] victim my pen and told him to circle the photograph that he
[5] identified. He circled the photograph of Johnnie Simmons and
[6] then he immediately circled a second photograph on the top
[7] right corner.
[8] I asked him why he did that? Why he circled this
[9] second photograph. He said -- from my recollection he said
[10] that I also know him or it could also be him and I confirmed,
[11] The person that you identified, is that the person that shot
[12] you? And he said, Yes. I told him to sign the photograph,
[13] which he did, and the date and time, which is February 8th,
[14] 2011, 9:50. I'm sorry, 9:50 p.m.
[15] At that time, 9:55, I conducted a full interview of
[16] Charles Talbert. I tried to get as detailed as I could with
[17] the story that happened when he was shot and also explain the
[18] identification.
[19] **Q.** Detective, why did you feel it was important to conduct
[20] a detailed interview with Mr. Talbert?
[21] **A.** I always try to get a detailed interview of the details
[22] of what actually happened when they were shot especially in
[23] this case when I never had anyone sign two photographs before,
[24] especially, they identify someone. That was unique to my
[25] experience. I wanted to explain that as best I could.
Jaclyne Wilson

[1] **A.** Yes.
[2] **Q.** Do you you recognize that?
[3] **A.** I do.
[4] **Q.** What is that?
[5] **A.** This is a copy of the interview record that I took of
[6] Charles Talbert February 8th, 2011, at 9:55 p.m. inside
[7] Einstein Hospital.
[8] **Q.** Now, is that typed or handwritten?
[9] **A.** It's handwritten.
[10] **Q.** Okay. Would you agree with me you do not have the
[11] clearest handwriting to read?
[12] **A.** Definitely.
[13] **Q.** And why was this interview handwritten?
[14] **A.** I don't have a typewriter or computer available at the
[15] hospital.
[16] **Q.** And, detective, when you were recording this interview,
[17] when did you record it in relation to Mr. Talbert's responses?
[18] **A.** I tried to go along -- as the person is telling me what
[19] happened I try to record it has the person is going along.
[20] That's why my handwriting is pretty sloppy. As the person was
[21] telling me the information, I try to write it down as they're
[22] telling me the information. If they go too far ahead, I have
[23] them go back and I try to keep a pretty current with what the
[24] person is telling me.
[25] **Q.** And how long did this interview take?
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[1] A. About an hour.
[2] Q. Now, at the conclusion of the interview what do you do?
[3] A. The person looked over each page and read over their
[4] own interview, let me know if they want to make any
[5] corrections or if anything is inaccurate. After they're done
[6] reviewing each page, each single page, I have them sign the
[7] bottom of the page.
[8] Q. Did you have Mr. Talbert do that in this case?
[9] A. I did.
[10] Q. Okay. And was Mr. Talbert in a hospital bed when you
[11] were interviewing him?
[12] A. Yes, he was.
[13] Q. Was he restrained in anyway?
[14] A. That I don't remember. I don't believe he was.
[15] Q. Okay. Did he appear alert and oriented to you?
[16] A. Yes.
[17] Q. Did he appear under the influence of any narcotics?
[18] A. No. He was talking clearly. He seemed cooperative.
[19] He was talking clearly and he was answering every question I
[20] had with no problem.
[21] Q. Now, detective, over the course of your career, have
[22] you encountered people who have been under the influence of
[23] narcotics or alcohol?
[24] A. Yes.
[25] Q. Do you take interviews of witnesses that are
Jaclyne Wilson

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[1] A. Yes.
[2] Q. And his date of birth?
[3] A. Yes.
[4] Q. Were you able to verify that information, his date of
[5] birth and his address?
[6] A. Yes. The information we had from the day the shooting
[7] happened, which I believe it was the same information.
[8] Q. And did you ask Mr. Talbert to give you the name of a
[9] close relative?
[10] A. Yes.
[11] Q. And who did he give you?
[12] A. He said Ms. Clara Massey, 1219 Barringer Street, which
[13] is same address he gave as his residence.
[14] Q. Did he tell you what relationship that person had to
[15] him?
[16] A. He may have. I didn't document it. I don't remember.
[17] Q. Okay. And did you tell Mr. Talbert why you were
[18] interviewing him?
[19] A. Yes. In reference to the shooting incident.
[20] Q. Okay. And what was Mr. Talbert's demeanor on the day
[21] you interviewed him?
[22] A. His demeanor, after a first contact I really had with
[23] him was with the photo array and he seemed scared. When I
[24] interviewed him, he cooperated with everything he was telling
[25] me. He was cooperative as he was talking to me. He
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[1] intoxicated?
[2] A. Depends on the circumstances. If I feel I might not be
[3] able to interview them or in the case where if the person is
[4] going into surgery, I try to take an interview as much as I
[5] can before the person goes into the surgery if I'm able to do
[6] that. I try to take an interview before they go into surgery
[7] when they're in the emergency room. In this case --
[8] Q. Under typical circumstances, detective, if someone
[9] appears to be under the influence of the alcohol or drugs, do
[10] you continue to interview that person?
[11] A. No. I would try to wait until the person is of clear
[12] mind.
[13] Q. Did you observe any signs of Mr. Talbert that he was
[14] under the influence of any substance?
[15] A. No.
[16] Q. Now, the information, biographical information that
[17] appears at the top of page 1 of interview, from where did you
[18] get that?
[19] A. Word of mouth. I asked the victim, Charles Talbert,
[20] the information. His name, address, date of birth, phone
[21] number. It's all by word of mouth. It's what Charles Talbert
[22] told me.
[23] Q. All right. So Charles Talbert gave you his address?
[24] A. He did.
[25] Q. Okay. And he gave you how old he was?
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[1] wasn't -- didn't seem like he was lying or trying to hide
[2] anything. Everything was accurate with what he was it telling
[3] me. I had no reason to believe he was lying.
[4] Q. So, detective, if you would be so kind as to read the
[5] interview that you took of Mr. Talbert? I believe I may have
[6] misread some of your responses that you recorded.
[7] A. Sure. I asked Charles Talbert to explain to me what
[8] happened on the day of the shooting.
[9] Charles Talbert responded, I walked down Stenton
[10] Avenue to the sneaker store at Stenton and Johnson. On my way
[11] to the sneaker store a young boy asked me if I had weed for
[12] sale. He had glasses on. I told him that I don't sell weed
[13] no more. I told him I would sell it to him based on his
[14] strength. I sold him a bag of weed. From then I walk to the
[15] sneaker store and bought a phone and a shirt. While I was in
[16] the store, the guy that shot me came in. He told me that the
[17] bag of weed I sold the guy was two small. I reached in my
[18] pocket and I took out a bag of weed to exchange it. He took
[19] the bag of weed and left. While I'm waiting for my phone to
[20] get programmed, the original guy with the glasses came in. He
[21] says someone wants to buy a bag of weed. I said, Look, I told
[22] you before I don't sell weed. He said that someone across the
[23] street wants to buy weed. I told him I would see who it is
[24] and decided if I would sell it to him. I left my phone and
[25] stuff in the store and walked across the street. I saw the
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[1] same guy that I talked to about the exchange. So when I
[2] walked over there I said, What's up? As soon as I said,
[3] What's up, he pulled out and shot me in the stomach with a
[4] gray gun. Once he shot me, he shot me again. I crawled up
[5] the street. He shot me again. It sounded like he was trying
[6] to shoot me again. I was just laying there, crawling in the
[7] street, asking for people to help me. I remember someone with
[8] a gun out. I think it was an undercover cop. There was a
[9] guard from the sneaker store and a Muslim praying over me. I
[10] thought I was going to die out there. I don't remember
[11] getting in any ambulance.

[12] **QUESTION:** Can you describe the male that shot you?

[13] **ANSWER:** Slim, light skin, short, skinny face, small
[14] head, khaki set or cargo set, tan or beige, no facial hair, 19
[15] to 20 years.

[16] **QUESTION:** Have you ever seen him before?

[17] **ANSWER:** No.

[18] **QUESTION:** Can you describe the gun?

[19] **ANSWER:** Gray, about 6 to 8 inches. It had a thing
[20] on the back but I couldn't tell if it was a semiautomatic or
[21] revolver.

[22] **QUESTION:** I showed you a photo array with eight
[23] photographs. Did you see the person that shot you in the
[24] photo array?

[25] **ANSWER:** I think the one on the bottom is the one
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[1] locked up then because I had a warrant. He's probably mad
[2] because of that whole situation.

[3] **QUESTION:** Where and when did that incident occur?

[4] **ANSWER:** About four years ago at Stenton and
[5] Cliveden Street.

[6] **QUESTION:** Why do you think your shooting has to do
[7] with that incident?

[8] **ANSWER:** Because today my cousin Rachel told me that
[9] her friend Janae said TI was calling from jail letting people
[10] know I was home. He may be trying to have me set up.

[11] **QUESTION:** Have you seen the male identified as
[12] Johnnie with TI in the past?

[13] **ANSWER:** Yes.

[14] **QUESTION:** Do you know the other male with the
[15] glasses?

[16] **ANSWER:** He looked like kind of familiar. Like
[17] someone from the neighborhood. I don't know his name.

[18] **QUESTION:** Where was the male with the glasses when
[19] you got shot?

[20] **ANSWER:** He was about 15 to 20 feet in the sneaker
[21] store standing there.

[22] **QUESTION:** Can you describe the male with the
[23] glasses?

[24] **ANSWER:** Skinny, light-skinned, taller than the
[25] other guy, low cut, 19 to 20 years, 120 pounds to 130 pounds,
Jaclyne Wilson

[1] that shot me. Now that I think about it, his name is Johnnie.

[2] I think he's the one that shot me.

[3] **QUESTION:** Why did you circle the picture on top,
[4] No. 4?

[5] **ANSWER:** I was scared. I circled the one on the
[6] bottom first time.

[7] **QUESTION:** Does the second photograph that you
[8] circled, No. 4, have anything to do with the shooting?

[9] **ANSWER:** No.

[10] **QUESTION:** Are you sure that the photo that you
[11] circled first, No. 6, is the person that shot you?

[12] **ANSWER:** Yes, I am sure.

[13] **QUESTION:** Do you know the male that you identified
[14] as shooting you?

[15] **ANSWER:** I know him from the neighborhood.

[16] **QUESTION:** How long have you known him?

[17] **ANSWER:** A few years.

[18] **QUESTION:** Is there any reason that this male would
[19] want to shoot you?

[20] **ANSWER:** He has ties to TI. TI is a guy I testified
[21] against about three to four years ago. I ended up not
[22] testifying against him.

[23] **QUESTION:** What was the nature of that incident?

[24] **ANSWER:** He tried to run me over. He got locked up
[25] for running me over but I didn't testify against him. I got
Jaclyne Wilson

[1] little mustache. I can't remember what he was wearing.

[2] **QUESTION:** Did you see where the shooter and the
[3] male with the glasses went after the shooting?

[4] **ANSWER:** No. I was on the ground. I keep having
[5] flashbacks though.

[6] **QUESTION:** Is there anything else that you can tell
[7] me about Johnnie?

[8] **ANSWER:** I think he lives around Duval Street or
[9] Johnson Street. His nickname is Mooch or Johnnie.

[10] **QUESTION:** Were there any descriptive markings on
[11] Johnnie's clothing?

[12] **ANSWER:** Beige or white khaki suit.

[13] **QUESTION:** Where are the items you brought from the
[14] sneaker store?

[15] **ANSWER:** They are still in the store. I used my
[16] Muslim name for the phone, Kalil Zekoe.

[17] **QUESTION:** Is anyone else in the the area -- was
[18] anyone else in the area when you were shot?

[19] **ANSWER:** Not that I remember.

[20] **QUESTION:** Is there anything else you can add?

[21] **ANSWER:** No.

[22] **QUESTION:** Can you tell me how you feel at this
[23] time?

[24] **ANSWER:** I'm afraid that I'm not going make it.
[25] And then the interview concluded.
Jaclyne Wilson

[1] **Q.** At the end of the interview did you have Mr. Talbert
[2] note the time?
[3] **A.** Yes. It was February 8th, 2011, 11:10 p.m.
[4] **Q.** Now, prior to seeing Mr. Talbert in the hospital for
[5] the first time on February 4th and again on February 8th, had
[6] you ever met him before?
[7] **A.** No, I have not.
[8] **Q.** Did you know who he was talking about when he mentioned
[9] TI?
[10] **A.** Not at the time.
[11] **Q.** Prior to this investigation, did you know the
[12] defendant?
[13] **A.** No.
[14] **Q.** If Mr. Talbert had told you he wasn't sure who shot
[15] him, what would have happened to this investigation?
[16] **A.** We would have to continue to investigate. I would
[17] explain that in the interview as he told me that.
[18] **Q.** Did you have Mr. Talbert review his interview?
[19] **A.** Yes, I did.
[20] **Q.** Did he sign his interview?
[21] **A.** Yes.
[22] **Q.** Did he sign each page?
[23] **A.** Yes, he did.
[24] **Q.** Was Mr. Talbert given the chance to make any
[25] corrections?

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[1] forwarded the paperwork to them. I prepared an affidavit and
[2] an arrest warrant for the defendant, Johnnie Simmons. And
[3] other detectives, Detective Sloan and Geliebter, prepared a
[4] search warrant for the defendant's residence.
[5] **Q.** Okay. And for what location was that residence?
[6] **A.** I believe it was 1528 East Johnson Street.
[7] **Q.** Was anything recovered from that location?
[8] **A.** Detective Grace and Detective Suchinsky recovered
[9] clothing. They were placed on a property receipt.
[10] **MS. FORCHETTI:** Your Honor, I would ask
[11] to mark this document, three pages in length, as
[12] Commonwealth Exhibit 13.
[13] **THE COURT:** You may.
[14] **MS. FORCHETTI:** For the record, it is
[15] Search Warrant No. 154765.
[16] (Search warrant marked Commonwealth
[17] Exhibit C-13 for identification.)
[18] **COURT CRIER:** So marked C-13, Your Honor.
[19] **BY MS. FORCHETTI:**
[20] **Q.** Detective, you have a three-page document in front of
[21] you.
[22] Do you recognize that document?
[23] **A.** Yes, I do.
[24] **Q.** Okay. You affiant on that document?
[25] **A.** Yes, myself and Detective Sloan are the affiants.

Jaclyne Wilson

[1] **A.** Yes. Before I had the person sign the interview, I let
[2] him know to review everything, including everything up top,
[3] the biographical information, the spelling of their name,
[4] phone number, date of birth and then review the entire
[5] statement. If there is anything they want to change or they
[6] think is inaccurate, then let me know and we can change it and
[7] he did not make any changes.
[8] **Q.** He didn't?
[9] **A.** He did not.
[10] **Q.** Did he ever at any time recant his statement?
[11] **A.** No.
[12] **Q.** Has Mr. Talbert contacted you since he gave that
[13] statement?
[14] **A.** No.
[15] **Q.** Has he at any time told you that you arrested the wrong
[16] person?
[17] **A.** No.
[18] **Q.** Have you received any information from any other source
[19] about anyone else being the shooter?
[20] **A.** No.
[21] **Q.** Once Mr. Talbert identified the defendant as the person
[22] who shot him, how does the investigation continue?
[23] **A.** I went back to Northwest Detectives headquarters. I
[24] spoke to the Assistant District Attorney's Office Charging
[25] Unit. I reviewed the facts of the case. I believe I

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[1] **Q.** Detective, just so jury's clear, what does it mean to
[2] be the affiant?
[3] **A.** We're the law enforcement officers that were swearing
[4] to the facts that are contained in the search warrant.
[5] **Q.** And what location is that search warrant?
[6] **A.** It's a search warrant to search property of 1528 East
[7] Johnson Street.
[8] **Q.** And why did you seek to search that residence?
[9] **A.** To search for any handguns, any firearms, ballistics
[10] evidence and to search items that are listed in this search
[11] warrant which is gray-colored handgun, any ballistics
[12] evidence, tan or beige-colored type cargo set, proof of
[13] residency, items that may be related to the shooting.
[14] **Q.** And on what date did you apply for that search warrant?
[15] **A.** February 9th, 2011.
[16] **Q.** Now, detective, why didn't you apply for the search
[17] warrant on the day of the shooting?
[18] **A.** We didn't have an identification at that time. We
[19] didn't have positive identification. As soon as I get the
[20] positive identification on Johnnie Simmons, I contacted the
[21] District Attorney's Office, which was February the 8th and
[22] late in the evening. We went back and immediately prepared
[23] the arrest warrant and search warrant.
[24] **Q.** Did you recover any ballistics evidence from that
[25] location?

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[1] **A.** I was not present at the time of the search. Two other
[2] detectives that were working in the morning actually executed
[3] the search warrant, Detective Grace and Detective Suchinsky.
[4] It was executed that next morning, February 9th, 2011 at 6:30
[5] a.m.
[6] **Q.** Detective, how was the defendant arrested?
[7] **A.** During the execution of the search warrant, the arrest
[8] warrant had already been issued and Detective Grace and
[9] Suchinsky arrested Johnnie Simmons inside the residence.
[10] **Q.** Now, how far is that location from the scene of the
[11] shooting?
[12] **A.** The scene of the shooting was 1300 East Johnson and the
[13] residence is 1500 East Johnson. So about two blocks.
[14] **Q.** Now, detective, do you get any kind of reward or
[15] incentive for arresting defendants on shootings?
[16] **A.** No, we don't.
[17] **Q.** Would your investigation continued if the defendant
[18] hadn't been identified on the 8th of February?
[19] **A.** It would have continued, yes, to look for the shooter.
[20] In this case we believed we had the shooter. The arrest
[21] warrant was approved and the investigation ended there.
[22] **Q.** Did you attempt to locate the person that had
[23] cooperated with the defendant?
[24] **A.** Yes, we did. There was another pedestrian
[25] investigation by Officer Nosik, N-O-S-I-K, 14th District
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[1] involved in this investigation and I was told that I did not
[2] need to testify because he was cooperative.
[3] **Q.** Since this investigation in February of this year, are
[4] you still assigned at Northwest Detectives?
[5] **A.** Yes, I am.
[6] **Q.** Okay. Would Mr. Talbert have been able to get in
[7] contact with you at Northwest Detectives?
[8] **A.** Yes. There were actually phone calls, messages left
[9] for us at Northwest Detectives. I believe in reference to he
[10] wanted to make sure he was -- the witness protection, like the
[11] witness protection program. He wanted to make sure he was
[12] safe. That was the only messages and conversation we had.
[13] **Q.** And, detective, do you have anything to do with
[14] relocating witnesses?
[15] **A.** No. Information is referred to the another district
[16] attorney that handles that information.
[17] **Q.** And do you remember when you received those messages
[18] with respect to any intimidation?
[19] **MR. LORUSSO:** Objection.
[20] **THE COURT:** Sustained.
[21] **BY MS. FORCHETTI:**
[22] **Q.** Since you interviewed Mr. Talbert, have you had any
[23] further conversation with him other than the follow-up on the
[24] individual with the glasses?
[25] **A.** No.
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[1] police officer. That did meet with Charles Talbert, showed a
[2] photo array with that male's name. That name I don't remember
[3] at this time, and he said it was the person that -- with the
[4] glasses that he identified with the glasses on that day. We
[5] actually had contact with that male and interviewed him inside
[6] Northwest Detectives.
[7] **Q.** And what happened with respect to that investigation?
[8] **A.** The investigation stopped there.
[9] **Q.** Detective, since interviewing Mr. Talbert, have you had
[10] any further contact with him?
[11] **A.** No. We had contact with him when I showed the photo
[12] array inside to identify the male that had the glasses on. We
[13] did have contact with him then.
[14] **Q.** Detective, were you present at the preliminary hearing
[15] of April 26th, 2011, in Courtroom 803?
[16] **A.** Yes.
[17] **Q.** Did you testify at that preliminary hearing?
[18] **A.** No.
[19] **Q.** Did you at any time tell Mr. Talbert what to say?
[20] **A.** No.
[21] **Q.** Were you inside the courtroom while Mr. Talbert
[22] testified?
[23] **A.** No.
[24] **Q.** Why not?
[25] **A.** Well, I couldn't be inside the courtroom because I was
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[1] **MS. FORCHETTI:** Your Honor, I would ask
[2] to mark this document as Commonwealth Exhibit 14.
[3] **THE COURT:** You may.
[4] **MS. FORCHETTI:** For the record, it's
[5] Property Receipt No. 2955110.
[6] (Property receipt marked Commonwealth
[7] Exhibit C-14 for identification.)
[8] **COURT CRIER:** C-14 so marked, Your Honor.
[9] **BY MS. FORCHETTI:**
[10] **Q.** Detective, you're being shown a property receipt that's
[11] been marked as Commonwealth Exhibit 14.
[12] Do you recognize that property receipt?
[13] **A.** Yes, I do.
[14] **Q.** And what evidence was placed on that property receipt?
[15] **A.** The evidence that was recovered inside Albert Einstein
[16] Hospital inside the trauma room which was one silver
[17] projectile. It was in a clear container with a blue lid and
[18] it had the trauma number markings on it. It was the
[19] projectile that was recovered inside the trauma room.
[20] **Q.** Okay. Detective, how did you come to recover that
[21] projectile?
[22] **A.** When we went to the hospital, the medical personnel
[23] have the projectile inside the container and said it was on
[24] the bed of the victim when they were treating him.
[25] **Q.** I'm sorry. They said it was where?
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[1] **A.** It was on the bed of the -- hospital bed of
[2] the -- where they were treating the victim.
[3] **Q.** What did you do with that projectile?
[4] **A.** I submitted it. We have a Firearms Investigation Unit.
[5] I submitted the projectile to them at 8th and Poplar.
[6] **Q.** Detective, were you able to have that projectile
[7] submitted for any type of comparison?
[8] **A.** Submitted for examination. They do tests. At this
[9] time there was nothing to compare it to. There was no other
[10] ballistics evidence recovered. There was no gun recovered so
[11] there was nothing to directly compare it to.
[12] **MS. FORCHETTI:** And, Your Honor, I would
[13] ask to mark this Property Receipt No. 2955123 as
[14] Commonwealth Exhibit 15.
[15] **THE COURT:** It may be marked.
[16] (Property receipt marked Commonwealth
[17] Exhibit C-15 for identification.)
[18] **COURT CRIER:** So marked C-15.
[19] **BY MS. FORCHETTI:**
[20] **Q.** Detective, you're being shown a property receipt that's
[21] been marked as Commonwealth Exhibit 15.
[22] Can you tell us what that is?
[23] **A.** That is a property receipt that I prepared for the
[24] bloody clothing that belonged to the victim. I recovered it
[25] from inside Einstein Hospital.
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[1] **Q.** And are you involved in the narcotics case connected to
[2] Mr. Talbert?
[3] **A.** No, I'm not. The police officers who arrested
[4] Mr. Talbert processed that arrest and it was separate from my
[5] investigation.
[6] **Q.** Now, did you promise or threaten Mr. Talbert with
[7] anything when you talked to him in the hospital room four days
[8] later?
[9] **A.** No.
[10] **Q.** Were you aware of the status of his open case?
[11] **A.** No. I actually wasn't concerned with it.
[12] **Q.** Why were you not concerned with it?
[13] **A.** I was investigating the shooting. I had nothing to do
[14] with the narcotics arrest. I wasn't concerned. I was trying
[15] to find out who shot him. That was my most concern.
[16] **Q.** And, detective, how many times did you talk to
[17] Mr. Talbert on February 8th before you took an interview from
[18] him?
[19] **A.** That was the first time. I wasn't able to speak to him
[20] on the day he was shot because of his condition. He went
[21] right into the operating room.
[22] **Q.** Thank you.
[23] **MS. FORCHETTI:** I don't have any further
[24] questions.
[25] **THE COURT:** Ladies and gentlemen, we are
Jaclyne Wilson

[1] **Q.** And, detective, why is it important to prepare property
[2] receipts in connection to evidence recovered?
[3] **A.** For the chain of evidence. Proves we did recover that
[4] clothing. We had it in our custody. We submitted it to our
[5] evidence custodian.
[6] **Q.** Now, detective, did you submit that clothing for any
[7] type of forensic testing?
[8] **A.** I did not.
[9] **Q.** Okay. And why not?
[10] **A.** In this case there was no reason to. It was the
[11] victim's bloody clothing. It's just evidence of the crime.
[12] There is nothing to compare it to as far as blood. We had no
[13] comparisons to be made.
[14] **Q.** Now, detective, at the time you talked to Mr. Talbert,
[15] were you aware that he was under arrest?
[16] **A.** Yes. He was placed under arrest at the hospital.
[17] **Q.** And how did you become aware of that?
[18] **A.** Another police officer. I believe it was for narcotics
[19] violation.
[20] **Q.** Did that effect your investigation at all?
[21] **A.** No. That is just basically a separate incident. A
[22] police officer processed that arrest separate from our
[23] investigation.
[24] **Q.** Does that change how you treat Mr. Talbert?
[25] **A.** No.
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[1] going to recess now, and I remind you to keep an
[2] open mind. Don't discuss the case amongst
[3] yourselves and don't permit anyone to discuss it
[4] with you.
[5] We are going to resume tomorrow morning
[6] promptly at nine o'clock. Let me advise you that we
[7] cannot get started until everyone is in place. One
[8] person is late, then we cannot get started. So
[9] please. We'll start tomorrow morning at 9:00.
[10] Enjoy your evening. We'll see you all back here
[11] tomorrow.
[12] Ladies and gentlemen, please remain in
[13] your places until such time as the jurors have
[14] cleared the floor.
[15] Enjoy your evening, ladies and gentlemen.
[16] The court officers and/or crier will tell you how to
[17] deliver your note pads to them.
[18] (Jury exits the courtroom at 5:08 p.m.)
[19] **THE COURT:** Let the record reflect the
[20] jurors have left the room.
[21] Would you please call your people and
[22] tell them I expect to start at nine o'clock, to
[23] please have someone here at nine o'clock. I don't
[24] know why it's necessary for me to have to call and
[25] beg for a sheriff to come up. I start ever morning
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[1] at nine o'clock. If you could tell them, if
[2] someone, if one of the two of you would get on the
[3] phone and tell them I will start tomorrow at 9:00, I
[4] will greatly appreciate it.
[5] **THE SHERIFF:** I will convey that,
[6] Your Honor.
[7] **THE COURT:** We will be starting tomorrow
[8] at 9:00, counsel. Not 9:05, but nine o'clock.
[9] Is that clear?
[10] **MS. FORCHETTI:** Yes, Your Honor.
[11] **MR. LORUSSO:** May I address another
[12] matter?
[13] **THE COURT:** Yes.
[14] **MR. LORUSSO:** Based upon this detective's
[15] testimony, I gather that there is an interview of
[16] this person identified as having worn glasses and
[17] there was an identification made. I have absolutely
[18] nothing dealing with that, and I would ask that I be
[19] provided with all of that documentation presently
[20] and I would move for a mistrial based upon the fact
[21] that there may be a witness that I have not had any
[22] knowledge of up until this point that may render
[23] exculpatory information for my client.
[24] **THE COURT:** You may respond.
[25] **MS. FORCHETTI:** Your Honor, there is no
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[1] just said he took and interview. He doesn't have to
[2] get on the stand.
[3] Find the interview and bring it back in.
[4] **MS. FORCHETTI:** Okay.
[5] (Hearing adjourned at 5:11 p.m.)
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[1] codefendant in this case. I don't see how this
[2] person was exculpatory. The investigation
[3] terminated upon --
[4] **THE COURT:** Do you have an interview from
[5] somebody that you didn't turn over?
[6] **MS. FORCHETTI:** No.
[7] **THE COURT:** That's what he just said. He
[8] learned from the detective that there was an
[9] interview and it hasn't been turned over to him.
[10] Ask the detective for the interview.
[11] **MS. FORCHETTI:** That was news to me. I
[12] will get it and we will give it to counsel.
[13] **THE COURT:** That was news to you?
[14] **MR. LORUSSO:** Can we --
[15] **THE COURT:** You asked about the interview
[16] without ever having --
[17] **MR. LORUSSO:** Can we have detective come
[18] back in?
[19] **THE COURT:** Why is he leaving?
[20] **COURT CRIER:** I thought you were done
[21] him, Your Honor.
[22] **THE COURT:** I'm not done with him.
[23] Do you have an interview?
[24] **MS. FORCHETTI:** I don't believe I do.
[25] **THE COURT:** Well, ask your detective. He
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[1] CERTIFICATE
[2]
[3] I HEREBY CERTIFY THAT THE PROCEEDINGS AND EVIDENCE ARE
[4] CONTAINED FULLY AND ACCURATELY IN THE NOTES TAKEN BY ME ON THE
[5] TRIAL OF THE ABOVE CAUSE, AND THIS COPY IS A CORRECT
[6] TRANSCRIPT OF THE SAME.
[7]
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